

Hi,

I am writing to advise of my opinion on the provisions within the Transport Standards that require attention based on my experience of applying the standards to various public transport environments, conveyances.

If you need any further information please let me know. Thanks.

External Lighting

The DSAPT leads you to 'the notes' of clause 19 of AS1428.2 for maintenance illumination levels. The whole clause indicates that the provisions are to meet an interior lighting standard but using only the wording and black and white application, external spaces would require a lux level of 150lux for external paths. This is an ongoing discussion in the industry that we have highlighted for a number of public transport environments. Stakeholders are using the whole clause when interpreting the requirements, interpreting that external illumination of 150lux levels not being applicable, which technically is not correct reading the clause. One of clients consulted with a lawyer who agreed with our interpretation that 150lux is required externally along access paths etc. The problem seems to be that 150lux is too bright for train drivers when passing through pedestrian level crossings (that form part of an 'accessway' under the BCA and 'access paths' under the DSAPT). They also see issues for passing motorists etc. There is no data that I can find online or internationally that talks about reduced lux levels for people with vision loss being acceptable to back up any performance solution under the BCA. A performance pathway is not permitted under the DSAPT alone for areas that are not captured by the permit, leaving stakeholders vulnerable.

Food & Drink Services

Recommend making this clause clear on what is expected as it is subjective ie compliance to AS1428.2 for a fully accessible counter or minimum AS1428.2 for reach ranges to the counter to collect money, food, drink only etc.

Stair Nosings

DSAPT references AS1428.2 for nosings and research indicates that these nosings can create potential trip hazards as the extension down the riser under AS1428.2 extends for 25-50mm (as opposed to 10mm max under AS1428.1 2009) which has been highlighted as posing issues for people with a specific type of vision loss. The current AS1428.1 2009 is preferred by user groups (ACAA forums which included consultation with Vision Australia). A performance solution can be developed if the stair is captured by a building permit but not if it falls under the DSAPT only in a public open space (not contained within the permit).

TGSIs - Discrete type

Discrete type TGSIs are not included in the referenced older standard and it is recommended that this is amended. At the moment, a performance solution is feasible to cover this where the TGSIs fall within an 'accessway' under the BCA part D3.2, however, for 'access paths' under DSAPT that do not fall under a permit, there is no performance mechanism. Equivalent access is a process permitted but in my experience this is a lengthy costly process for stakeholders. It is very difficult to get a consensus with these technical elements with people with disability. User groups work on a voluntary basis most of the time and it can be difficult to get people together, in agreement, understanding the intent of the technical provisions etc. It ends up dragging out for months even upwards of a year which is not a streamlined process for operators.

If a performance solution was provided for each facility it could have major cost implications for the public purse.

Definitions

Recommend adding in definitions for a bus vs a coach as the provisions vary for each relative to journey length.

Accessible Toilets on Coaches

Part 15.6 (shown below) is not clear on the minimum requirements for an accessible toilet on a coach. This leaves it open to a subjective assessment either using Part 15.4 for accessible toilets in ferries and rail cars or full compliance to AS1428.1. Recommend adding to clause 15.6 to include compliance to 15.4 if the WC is to be accessible to provide a benchmark for stakeholders.

15.6 Stops to be offered if accessible toilet not provided — coaches

If an on-board toilet is not accessible, the operator must offer stops, at reasonable frequency, at premises with accessible toilets.

Conveyances

- Coaches
-

Braille Signage

Part 17.6.2 of the DSAPT requires 'If an operator or provider supplements a notice with Braille characters, they must be placed to the left of the raised characters.' Braille signage in the Australian industry is all designed to have the Braille components under the text not to the left side. In my ten years in the industry I have yet to see a sign with the Braille to the left of the text.

Flange Gaps through railway or tram tracks

Recommend this is addressed as the DSAPT is currently silent and it is a hot topic in the industry. I attach a report that talks about this issue and recommendations provided to the Human Rights Commission. Refer to page 12 Assessment 1 for the discussion, conclusion is on page 17. Some guidance on maximum permitted horizontal and vertical gaps would greatly assist stakeholders.

Staff Assistance

The DSAPT is not clear on expectations for assisted access for passengers boarding a ramp steeper than 1:8 to a conveyance. Clause 6.4(c) talks about assisted access permitted for 1:4 boarding ramps (which is a very steep and dangerous grade). It does not specify who is to provide the assisted access.

Passengers will not always have a carer to assist therefore, they may not be able to gain access to a service on a 1:4 ramp. Staff are not permitted to conduct this role due to occupational health and safety.

This is discussed in the attached report under Assessment 4 page 27.

Washbasins

The DSAPT references the older AS1428.1 2001 standard for compliance which has a varying height to AS1428.1 2009. The referenced height (for at least one accessible WC) is lower which reduces the knee and leg clearance underneath. AS1428.1 2009 is more suited to users, requiring a BCA performance solution each time, which can have significant cost implications for clients and the public purse. If a performance solution was provided for each facility it could have major cost implications for the public purse.

Floor grades in accessible WC's

Again the older 2001 standard is referenced with varying floor grades to that of the current 2009 standard, with cost implications for clients and the public purse. If a performance solution was provided for each facility it could have major cost implications for the public purse.

Older referenced standards

DSAPT needs updating to include new standards.



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ARA Temporary Exemptions Assessment

prepared for

The Australian Human Rights Commission



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Overview

Equal Access, disability access consultants was engaged by the Australian Human Rights Commission (AHRC) to consult on the Australasian Railway Association (ARA) application for temporary exemptions from complying with the Disability Standards for Accessible Public Transport 2002 (DSAPT) and the Disability (Access to Premises – Buildings) Standards 2010 relating to accessibility for people with disability.

The four exemptions sought include:

1. DSAPT Part 2.1 ‘Access paths – Unhindered passage’ and Premises Standards Part H2.2(1) ‘Accessways’:

- *For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on rail premises or rail infrastructure.*

2. DSAPT Part 2.6 ‘Access paths – Conveyances’:

- *For a period of five years, an access path is only required at a single door of existing rail conveyances*

3. DSAPT Part 6.4 ‘Slope of external boarding ramps’:

- *For a period of five years, where the relationship between the platform and rail carriage means that an external boarding ramp can only be provided at a gradient greater than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance to customers to ascend or descend the ramp.*

4. DSAPT Part 8.2 ‘Boarding - When boarding devices must be provided’:

- *For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance.*

An initial review of the documentation provided by the ARA for the four exemptions sought was conducted by Equal Access. A meeting was subsequently held on 22nd December 2020 between Equal Access and the Commission to discuss further information

requirements, which were requested by the AHRC and provided by the ARA to assist with conducting the assessment and report.

The Disability Standards for Accessible Public Transport (DSAPT) is complex in its application throughout various parts. This report therefore breaks down the technical process when applying the relevant clauses associated with each exemption sought. This methodology aligns with how the DSAPT is applied in real time when assisting stakeholders with achieving compliance relative to public transport buildings, conveyances and infrastructure.

Although the ultimate goal for all public transport premises, infrastructure and conveyances is to provide universal access for all passengers regardless of ability, the ARA are required at a minimum to meet the requirements laid out in the legislative instruments and referenced Australian Standards. Provisions that go above and beyond these requirements are regarded as best practice.

Documentation

The following documents have been reviewed and considered as part of the scope for this review and report:

- *Disability Discrimination Act 1992 (DDA)*
- *Disability Standards for Accessible Public Transport 2002 (DSAPT)*
- *Disability (Access to Premises – Buildings) Standards 2010 (Premises Standards)*
- *Australian Standard AS1428.2 (1992): Design for access and mobility Part 2: Enhanced and additional requirements—Buildings and facilities (AS1428.2)*
- *Australian Standards AS1428.1 (2009): Design for access and mobility Part 1: General requirements for access—New building work (AS1428.1)*
- Australasian Railway Association exemptions application 2020
- AHRC Dispensation 2015-10-01_ARA-Decision
- Expert Report by Michael Small for previous exemptions application (2015)
- ARA Member condition reports 2015-2020:
 - *Metro Trains Melbourne*
 - *Department of Transport*
 - *V-Line*
 - *Transport for NSW*
 - *Public Transport Authority of WA*
- ACRI Research Report – Identification of Solutions to Rail Flange Gap Issues at Pedestrian Level Crossings, Rev 1.1 (22/05/2018)
- Appendix A: ACRI Flange Gap Research
- Appendix B: Copy of reports provided to the AHRC
- Appendix C: Boarding ramp slopes where 1 in 8 or better cannot be achieved
- ARA Submission – Response to the AHRC Request for Additional Information, 20 April 2021
- Public submissions from members of the public & disability organisations

Background & Scope

The Commission has an obligation to consider applications for exemptions under the Disability Discrimination Act 1992 (DDA), the Disability Standards for Accessible Public Transport 2002 (DSAPT) and Disability (Access to Premises-Buildings) Standards and has the power to grant exemptions under those legislative instruments.

In July 2020, the Australian Human Rights Commission received an application from the Australasian Railway Association (ARA) for exemptions under the Disability Discrimination Act, the Disability Standards for Accessible Public Transport and Premises Standards. The Application raises technical questions about the design of rail infrastructure and the accessibility requirements of persons with disabilities.

The Commission engaged Equal Access to provide consultancy services relating to the technical aspects of the application to assist the Commission with understanding the mandatory requirements associated with the exemptions sought.

The ARA is a peak industry body representing railway operators in Australia. It seeks four temporary exemptions on behalf of its members under the legislation.

The Commission granted the ARA a number of temporary exemptions under the DDA and the Transport Standards in 2007. In 2015, temporary exemptions were granted under the DDA, the Transport Standards and the Premises Standards. The previous exemptions expired on 30 September 2020.

The effect of a temporary exemption is that discrimination covered by the exemption is not unlawful under the Disability Discrimination Act while the exemption remains in force. In practical terms, this means that the activities or circumstances falling within an exemption cannot be the subject of a successful complaint under the Disability Discrimination Act.

Summary of Public Submissions

Public submissions from the below organisations and members of the public were reviewed and considered as part of this report:

- The All Aboard Network
- Anti-Discrimination NSW (ADNSW)
- Physical Disability Council of NSW (PDCN)
- Accessible Public Transport Jurisdictional Committee (APTJC)
- The Disability Resources Centre Inc (DRC)
- National Inclusive Transport Advocacy Network (NITAN)
- Cina Loren
- Richard Witbreuk

- The Disability Council NSW

A summary of the comments have been provided below.

All Aboard Network

The All Aboard Network have concerns on how compliance was achieved for all other elements required by DSAPT that formed the previous exemptions granted that do not form part of this exemption application and request that the Commission seek information from the ARA as to the circumstances surrounding the absence of the clauses from the current application.

The All Aboard network are concerned that the ARA is using the temporary exemption process to buy time until it can exert its considerable influence on the DSAPT modernisation to its advantage.

Clause 2.1 'Access paths – Unhindered passage' and Premises Standards Part H2.2(1) 'Accessways'

The All Aboard network advise that most sports wheelchairs have front wheels of 75mm approx. in diameter that could become entrapped within the flange gaps. They recommend an exemption period of three years with the following conditions:

- The flange gap on all pedestrian rail crossings be reduced to a maximum of 65mm, in line with the minimum stated in AS 1742.7, by the end of the exemption period.
- The ARA member concerned submits a report to the Commission at the beginning of each one year period of the exemption that:
 - Contains details of the level of compliance with this clause of the DSAPT at that time
 - Contains a detailed plan for the rectification work to be undertaken over the next 12 months.
 - Those reports shall be available to the public via the ARA and Commission websites. Reports from previous years shall also be available on those same websites.

Clause 2.6 'Access paths – Conveyances':

The All Aboard network recognises the importance of the conditions for the previous exemption period however have concerns that nominating an access path to a single door of the conveyance can still lead to significant discrimination regarding travel distances, unmarked and unclear boarding points, obstacles within the paths, lack of allocated spaces within nominated accessible rail cars, lack of shelter and information, safety devices and unavailability of allocated spaces in some carriages.

They recommend that the application be granted with conditions.

For a period of three years, an access path is only required at a single door of existing rail conveyances if:

- All of the allocated spaces as specified in DSAPT 9.6 are accessible from that single door and are compliant with DSAPT Parts 9.1, 9.7, 9.9, 9.10 and 9.11.
- This door is clearly marked as the only accessible entry, on the conveyance, at the boarding point and along the access path.
- An internal accessible path is available to provide movement from one train carriage to another in order to allow egress in the case that the nominated accessible entry becomes inoperable or otherwise unusable.
- The ARA member concerned submits a report to the Commission at the beginning of each one year period of the exemption that:
 - Contains details of the level of compliance with this clause of the DSAPT at that time
 - Contains a detailed plan for the rectification work to be undertaken over the next 12 months.
- Those reports shall be available to the public via the ARA and Commission websites. Reports from previous years shall also be available on those same websites.
- Otherwise, an access path is required at all doors of existing rail conveyances that, subject to compliance with DSAPT Part 9.6:
 - Have the international symbol of disability access displayed, and
 - Have allocated spaces inside the rail car that are accessible from that door
- The ARA member concerned submits a report at the beginning of each one year period of the exemption that details the level of compliance with this clause of the DSAPT at that time and a detailed plan for the rectification work to be undertaken over the next 12 months
- The ARA member concerned submits a report to the Commission at the beginning of each one year period of the exemption that:
 - Contains details of the level of compliance with this clause of the DSAPT at that time
 - Contains a detailed plan for the rectification work to be undertaken over the next 12 months.
- Those reports shall be available to the public via the ARA and Commission websites. Reports from previous years shall also be available on those same websites.

Clause 6.4 – ‘Slope of external boarding ramps’

The All Aboard network understands the occupational health and safety considerations where direct assistance is required in certain circumstances and note that these circumstances exist because of the failure by rail service providers and operators to address the clauses.

They do not support granting of this exemption.

Clause 8.2 – ‘Boarding – When boarding devices must be provided’

The All Aboard network refer to their comments for the exemption sought above.

Anti-Discrimination NSW (ADNSW)

Although ADNSW does not oppose the granting of these exemptions sought in the current application, ADNSW does not support the ARA repeatedly seeking temporary exemptions under the DDA every five years.

Clause 2.1 Access paths & Clause H2.2(1) of the Premises Standards ‘Accessways’

Anti-Discrimination NSW (ADNSW) accepts that at present there is no safe product that can reduce or eliminate flange gaps on level crossings and that there may never be a universal solution to flange gaps. They state that ARA members must work towards phasing out pedestrian level crossings used to access railway stations.

ADNSW does not oppose the granting of the exemption provided it is subject to the same conditions in the temporary exemption granted to ARA in 2015 and recommend phase out the level crossings.

Clause 2.6 ‘Access paths – conveyance’

ADNSW does not oppose the granting of the exemption to provide an access path to a single door of a conveyance provided it is subject to the same conditions outlined in the 2015 temporary exemption relating to rail conveyances.

Clause 6.4 ‘Slope of external boarding ramps’

ADNSW acknowledges the work health and safety issues associated with aiding customers boarding and alighting from access ramps.

ADNSW does not oppose the granting of the exemption provided it is subject to the same conditions outlined in the 2015 temporary exemption. In particular, ARA members must take steps to increase the number of locations where external boarding ramp slopes of 1 in 8 or better will be achieved.

Clause 8.2 ‘Boarding

ADNSW does not oppose the granting of the exemption provided it is subject to the same conditions outlined in the 2015 temporary exemption.

Physical Disability Council of NSW (PDCN)

The Physical Disability Council of NSW (PDCN) recommends rejecting the flange gaps exemption request and talks in general to the exemption requests as a whole rather than addressing one by one.

The PDCN would like to see evidence of how the previous exemptions not included in this exemption have progressed to now be compliant.

They have concerns over the consultation process where people with disability are involved providing an example of the ARA application where they say that people with disability were not consulted to raise issues and ask questions but instead advised of the application at later stages. They recommend a more meaningful consultation process where sufficient time is provided for committee members to approach and liaise effectively with people with disability.

The PCDN recommends that if the exemptions are granted by the AHRC, the ARA should provide an ongoing strategy on how they plan to meet compliance with the standards, including timelines and targets. They would also like to see a report on how the previous exemptions have been or are being met.

Recommendation 1:

The application for exemption should be rejected in full.

Recommendation 2:

If the Australia Human Rights Commission (AHRC) is minded to grant the exemptions, either in part or totality, the AHRC should require that the ARA provide:

- a publicly accessible report of progress made to date in meeting accessibility requirements;
- a publicly accessible strategic plan to meet accessibility requirements, identifying responsibilities, outcomes and timeframes

Recommendation 3:

If the AHRC is minded to grant the application, we would recommend that the ARA be provided with a shorter time frame and that they be required to report to the AHRC regularly to determine whether the exemption is still necessary across all requests and to update on overall progress.

Accessible Public Transport Jurisdictional Committee (APTJC)

The Accessible Public Transport Jurisdictional Committee (APTJC) advised that a majority of the members made no comment or did not express a position concerning the application.

The Disability Resources Centre Inc (DRC)

The DRC discusses their concerns over the DSAPT modernisation process being replied upon to overcome the flange gap issue. They note the width and depth of the gaps being equally as important when considering entrapment issues.

They recommend an annual strategy is put in place to demonstrate the commitment to working toward compliance.

Clause 2.1 – ‘Access Paths – Unhindered Passage’ & Clause H2.2 of the Access Standards ‘Accessways’

The Disability Resources Centre Inc (DRC) recommend that the exemptions are not granted, particularly where trains run less than 120km/hr and recommends an appropriate solution is found to overcome the hazards.

Clause 2.6 – ‘Access Paths – Conveyances’

DRC reject the exemption request that an access path is only required at a single door of existing rail conveyances

Clause 6.4 – ‘Slope of external boarding ramps’

DRC recommends data mapping stations and stops state-wide in order to prioritise the work of implementing bespoke raised boarding platforms. We also feel very strongly that this work should be prioritised in order that all Victorians can fully participate.

Clause 8.2 – ‘Boarding – When boarding devices must be provided’

The DRC note that the responses to Clause 2.6 also apply here.

National Inclusive Transport Advocacy Network (NITAN)

The National Inclusive Transport Advocacy Network (NITAN) requests the AHRC obtain confirmation on how the ARA has overcome the items not included in the application but that were granted an exemption in the previous period.

NITAN has concerns on the transparency, quality and effectiveness of consultations to date involving people with disability with regard to the DSAPT exemptions application. They discuss the lack of evidence from the ARA in this regard within their application and advocate for a more robust consultation process.

Clause 2.1 – ‘Access Paths – Unhindered Passage’ and clause H2.2 of the Access Standards ‘Accessways’

NITAN Recommends the exemption should be granted but with the following conditions;

1. The provision of business case modelling within 6 months from date of exemption showing a fully costed and funded plan for EITHER grade separation of pedestrian crossings or suitable gap filled flange gaps to reduce the width of said to the 55mm currently the aim in WA at a maximum.
2. Should this business case not be provided within the timeline the application for exemption should then be seen as not complying and be formally cancelled.

Clause 2.6 – ‘Access Paths – Conveyances’

The application should be granted but with the following conditions;

Either A or B below;

A. For a period of three years, an access path is only required at a single door of existing rail conveyances if:

1. All of the allocated spaces as specified in DSAPT 9.6 are accessible from that single door and are compliant with DSAPT Parts 9.1, 9.7, 9.9, 9.10 and 9.11.
2. This door is clearly marked as the only accessible entry, on the conveyance, at the boarding point and along the access path.
3. An internal accessible path is available to provide movement from one train carriage to another in order to allow egress in the case that the nominated accessible entry becomes inoperable or otherwise unusable.
4. The ARA member concerned submits a report to the Commission at the beginning of each one year period of the exemption that:
 - a) Contains details of the level of compliance with this clause of the DSAPT at that time
 - b) Contains a detailed plan for the rectification work to be undertaken over the next 12 months.
 - c) Those reports shall be available to the public via the ARA and Commission websites. Reports from previous years shall also be available on those same websites.

OR;

B. An access path is required at all doors of existing rail conveyances that, subject to compliance with DSAPT Part 9.6:

1. Have the international symbol of disability access displayed, and
2. Have allocated spaces inside the rail car that are accessible from that door
3. The ARA member concerned submits a report at the beginning of each one year period of the exemption that details the level of compliance with this clause of

the DSAPT at that time and a detailed plan for the rectification work to be undertaken over the next 12 months

4. The ARA member concerned submits a report to the Commission at the beginning of each one year period of the exemption that:
5. Contains details of the level of compliance with this clause of the DSAPT at that time
6. Contains a detailed plan for the rectification work to be undertaken over the next 12 months.
7. Those reports shall be available to the public via the ARA and Commission websites. Reports from previous years shall also be available on those same websites.

Clause 6.4 – ‘Slope of external boarding ramps’

NITAN recommends that the application for exemption from clause 6.4 should not be granted.

Clause 8.2 – ‘Boarding – When boarding devices must be provided’

NITAN recommends the application should be granted but with the following conditions:

1. The proposed exemption should ONLY apply to existing rail stock. This should be expressly outlined.
2. The ARA should commence within 6 months a co-design project with the disabled community and rail industry on the feasibility of automated ramp solutions. This should be completed with the view to the above work on platform raising ensuring that the goal of raised full length platforms are the norm. This work must be completed within 12 months.
3. Pending results of the project in b), all future rail stock should be procured with an automated ramp solution alongside full length raised station platforms.

Cina Loren

Cina Loren discusses many issues that affect her daily life with regard to public transport and queries areas not covered by the application such as service and communication levels, staff awareness on how to deal with people with disability, the lack of accessible toilets on V-line trains for long journeys, driver safety, lack of awareness by staff of the access travel pass, lack of seat belts on public transport, limitations to regional and rural services, lack of public awareness regarding priority seating for people with disability and invisible disabilities, the complaint process.

Richard Witbreuk

Richard Witbreuk discusses his disappointment in the exemption applications and lack of vision to work toward compliance within specific timeframes. He believes that the exemptions sought do not satisfy the objects as stated in Section 3 of the DDA 1992 and

that the application demonstrates that people with disabilities do not have the same fundamental rights as the rest of the community.

The Disability Council NSW

The Disability Council NSW supports the commitment of Australian Railway Association (ARA) in its pursuit of improving the DSAPT and seeking a commitment from the Government to have the reform completed by 2023.

They recommend that disability access plans by the operators that are in place or being put in place to be current and available and reviewed in line with the DSAPT reform expected completion in 2023.

The DCNSW recommends access takes precedence over heritage environments, investing in educating staff on applying the DSAPT and commitment by all states and Territories

The Council suggest ARA to request all States and Territories to ensure that their accessibility plan (Disability Inclusion Action Plan for NSW) at a minimum should include the following commitments and outcomes as stated in the request:

- Railway operators will continue to upgrade and improve railway level crossings where possible as well as trial new products and technologies to minimise the gap.
- Improve communications to passengers as to the location of the one access path for alighting the train. Some members of the Council have seen confusion among passengers and the platform rail staff, particularly in situations where the passenger is already on board and requires assistance to disembark.
- As per the DSAPT Clause 6.4, the Council recommends all States and Territories should follow NSW Transport in its progress toward making all stations accessible. The Council also wishes to emphasize that if it is unsafe for transport staff to assist a person using a mobility aid in any circumstances (for example - where the ramp is too high or where there is wider gap between the rolling stock and the platform), they should not be expecting the companion/carer to be placing themselves at the same level of risk.

Assessment 1: DSAPT Part 2.1 'Access paths – Unhindered passage' and Premises Standards Part H2.2(1) 'Accessways'

Exemption sought:

- *For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on rail premises or rail infrastructure.*

Legislative Clause:

DSAPT Part 2.1, Access paths - Unhindered passage

*Application: Premises - except premises to which the Premises Standards apply
Infrastructure - except airports that do not accept regular public transport services*

- (1) An access path that allows unhindered passage must be provided along a walkway, ramp or landing.*
- (2) An access path must comply with AS 1428.2 (1992) Clause 8.1.*

Technical Assessment

Flange gaps within level crossings have been the subject of discussions for many years with no universal solution found to date. The flange gaps are an essential part of the supporting infrastructure for Australia's rolling stock.

The gaps have the potential to catch a wheelchair users castor wheels where they can become lodged within the gaps, trapping the user within the rail corridor.

The technical assessment below reviews three legislative clauses, which will be addressed clause by clause below.

- *DSAPT Part 2.1(1) – Access paths, Unhindered passage*
- *DSAPT Part 2.1(2) - Access paths, Unhindered passage*
- *Premises Standards Part H2.1 - Accessways*

DSAPT Part 2.1(1) – Access paths, Unhindered passage:

Part 2.1(1) of the DSAPT applies to an access path that is provided within rail premises or infrastructure as part of a public transport service and includes the following general requirement:

2.1(1) An access path that allows unhindered passage must be provided along a walkway, ramp or landing.

An access path is defined as '*a path that permits independent travel for all passengers within public transport premises, infrastructure or conveyances*' (DSAPT Part 1.9).

The DSAPT does not prescribe how to achieve 'unhindered passage' along an access path and in the absence of this information and any referenced to flange gap widths within the standards, the assessment will review the maximum gap width that is considered to provide access for people with mobility limitations without creating an obstacle or impediment when negotiating the crossings unassisted. Although the DSAPT does not refer to flange gaps, this does not negate the requirement to assess how unhindered passage is provided over the gaps.

To ascertain a safe benchmark, part 8.2 of the DSAPT has been considered because it prescribes the maximum gaps permitted between a boarding point and conveyance for people with mobility aids. The clause sets a maximum 40mm wide horizontal gap for independent use, which is considered to provide 'unhindered passage' over the flange gaps.

It is acknowledged that achieving a 40mm flange gap may not be possible and further information presented by the ARA on horizontal gaps up to 50mm being accepted in Europe as safe for independent use has been used to assist with formulating the recommended conditions for this exemption sought.

DSAPT Part 2.1(2) - Access paths, Unhindered passage:

This clause also applies to rail premises and infrastructure provided for passengers as part of a public transport service and requires the following:

2.1(2) An access path must comply with AS1428.2 (1992) Clause 8.1.

AS 1428.2 Clause 8.1 references AS 1428.1 (2001) for compliance, with two specific clauses considered as referenced in the ARA report:

Clause 5.1.2 Continuous accessible paths of travel are to be constructed with no lip or step at joints between abutting surfaces with a 5mm bevelled construction tolerance permitted.

Clause 12 Gratings located within walkways are required to provide spaces no greater than 13mm wide x 150mm long and where grate openings are elongated, they are to be placed to have the long dimension transverse to the dominant direction of travel.

The flange gaps provide horizontal openings within the path rather than a vertical 'step' or 'lip' between abutting surfaces as mentioned above in clause 5.1.2. Clause 12 refers to drainage grates within walkways and the purpose of the flange gaps is not to shed and transport water, therefore it is my opinion that both of these clauses are not relative to the subject of the flange gaps.

Premises Standards Part H2.1 – Accessways:

Part H2.1 of the Premises Standards applies to accessways commencing at the boundary and leading to public transport buildings onsite, between accessible buildings onsite that are linked by a pedestrian path and to and from accessible car parking spaces. Therefore, where a level crossing is provided and forms part of an accessway as mentioned above, the provisions of the below clause under part H2.1 are applicable:

2.1(1) An accessway must comply with AS 1428.2.

Similar to the previous discussion above, this clause references vertical abutments between abutting surfaces and drainage grates and, in my opinion, is not applicable to the flange gaps. The Premises Standards reference AS1428.1 (2001), which by definition requires

accessways to be 'uninterrupted' and therefore, this provision is treated similar to the above discussion under the DSAPT relating to 'unhindered passage'.

Australian Standard AS 1742.7 (2016)

The ARA report references AS 1742.7 (2016), *Manual of uniform traffic control devices – Railway crossings*, which relates to the safety of pedestrian crossings at grade for rail traffic, road users and pedestrians, including people with mobility aids under the definition for 'pedestrians'.

AS 1742.7 applies to crossings not covered under the DSAPT or Premises Standards and replicates a number of the DSAPT requirements relative to access paths, including reference to AS 1428.1. AS 1742.7 references flange gaps and to summarise, permits a 65-75mm width range but notes that this gap range has the potential to create entrapment hazards and recommends consideration of this when designing pathways.

It is important to note that there is no legislative relationship between AS 1742.7 and the DSAPT or Premises Standards. This means that flange gaps within pedestrian paths covered by the DSAPT or Premises Standards cannot be assumed compliant if they meet the provisions of AS 1742.7 because this standard is not referenced by those legislative instruments as part of the compliance process.

ARA Report & Supporting Documentation

The documentation submitted by the ARA details the measures taken within the previous exemption period to eliminate or reduce the flange gaps. The ARA confirm that there has been no successful 'universal' product found within the five year exemption period that will accommodate the rail environment in Australia.

Although various implications were noted across the products researched and tested to date, the VeloStrail product eliminates the flange gap with a compressible filler and appears to have the potential to be rolled out on a case-by-case basis.

The advantages of the VeloStrail product noted in the documentation includes:

- has the potential to completely close the flange gap with compressible filler and suitable for typical mainline track speeds
- has a replaceable filler panel with potential for maintenance costs to be reduced by replacing the filler panel at longer intervals, provided it does not create any issues for mobility aid users
- performs well based on a desktop review via Google Maps for locations with Australia and New Zealand
- although early trials of the product in Queensland indicated grease transportation to the access path, subsequent trials in Australia and New Zealand indicated this was '*less of a concern*'.
- Railway infrastructure managers (RIMs) who have adopted the product are not concerned about derailment of light maintenance vehicles or filler panels becoming degraded with time to cause derailment

- the product has undergone a 30 month trial by V/Line and currently moving through the approval process for products in the rail corridor with further assessments needed
- noted as exceeding the performance requirements set out by the Austrian Federal Railways (*Conference paper presented in Australia by Roseman -2008*)

This information sounds promising to eliminate the flange gaps and although the product may not be deemed suitable for every pedestrian crossing as noted in the ARA application, the recommended conditions include further investigation by the ARA on which flange gaps can be eliminated with the VeloStrail product to work toward reducing the number of crossings that present wide flange gaps in each jurisdiction.

The table below presents information relating to gap widths accepted internationally and includes outcomes of laboratory testing conducted by the Australasian Centre for Rail Innovation (ACRI) on flange gaps, taken from the ARA documentation.

Country	Source	Info / Conclusion
France	<i>European Cooperation in the field of Scientific and Technical Research (COST), 1999, Passengers' accessibility of heavy rail systems, Report no: COST 335, European Communities, Belgium.</i>	<ul style="list-style-type: none"> • 100mm horizontal gap manageable with difficulties, • 50mm max preferred
Germany		
Great Britain		
Australia	ACRI Report lab test results	<ul style="list-style-type: none"> • 65-75mm horizontal & 50mm vertical gap did not create entrapment where the angle of the crossing was greater than 45 degrees. • Uneven ground surfaces, abutments and angled crossings less than 45 degrees caused castor wheels to rotate and fall into the gaps. • Where entrapment occurred, users were unable to dislodge their mobility aids independently and with great difficulty when assisted. • Dislodgement of entrapped castor wheels only possible with 10mm vertical gap. • 3 mobility aids tested. • Report noted further testing is required to include more

		experienced mobility aid users as test subjects
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Based on the information presented by the ARA as summarised in the table above, a gap of 50mm is considered functional and accessible for independent use to negotiate flange gaps within an 'access path' or 'accessway', with an additional 5mm construction tolerance deemed acceptable (55mm total).

To scale the issue, the ARA was requested to provide further information on the number of access paths in existence that are provided through a level crossing, which have been summarised below:

- MTM: MTM have 373 level crossings, of which 58 are considered an access path.
- NSW: 35 out of the 3800 total level crossings in existence are considered an access path.
- PTAWA: 26 out of 72 stations have a level crossing that forms part of an access path.
- V/Line: approximately 40 out of the 89 stations have one or more level crossings that form part of an access path.

Conclusion

The ARA have taken reasonable measures in the previous exemption period to research, test, document and record the attempts made to rectify and overcome the issue of the flange gaps in my opinion.

Although the standards do not specifically address flange gaps, it is not recommended that this omission be interpreted as a flange gap width up to 75mm being accepted as safe and functional using AS 1742.7 throughout Australia. AS 1742.7 makes it clear in the notes that stakeholders should consider that gap widths between 65-75mm could present an entrapment hazard when designing footpaths. It is noted that the Association of Consultants in Access, Australia (ACAA), were represented on committee MS-012 to assist with the update of AS 1742.7 in 2016.

To assist with ascertaining a safe benchmark to meet the DSAPT requirement for 'unhindered passage' through the pedestrian crossings, provisions relating to maximum gap widths to board a conveyance for people with disability have been considered from the DSAPT under part 8.2 (40mm horizontal gap), in addition to international provisions that have been tested and accepted as safe and functional for wheelchair users (50mm horizontal gap), with an additional small tolerance of 5mm considered reasonable given the constraints of these environments. Although the DSAPT permits a horizontal gap of up to 40mm, it is acknowledged that this gap width may be unachievable, hence the consideration of the international data presented. The Public Transport Authority in WA

have noted 55mm to be their goal for the flange gaps and if this is achievable, other jurisdictions are recommended to follow suit.

There is insufficient evidence presented at this point in time that demonstrates horizontal gaps greater than this being safe for independent use and although the conditions recommend granting the 75mm flange gap width for a further five years, this is to allow the ARA time to present a strategy to the AHRC for improving the crossings with timeframes to either reduce or eliminate the gap or alternatively separate the pedestrian access paths by grade. I believe this is a fair and reasonable approach considering the previous exemption period allowed the ARA sufficient time to investigate options for remedy and this exemption period will provide sufficient time to put a strategy in place to improve the crossings. It is difficult to determine a reasonable timeframe for the crossings to be rectified due to the myriad of variables involved such as resources, funding, approval processes etc., however, the conditions recommend the ARA to propose reasonable timeframes as part of the strategy within the exemption period.

In addition to the above, it is evident from the information presented, that additional elements of these pedestrian crossings can be attributed to incidents occurring and it is recommended that the ARA members audit existing crossings within their jurisdiction to ascertain any immediate hazards.

The below information is provided as a general guide in this respect. It includes some legislative requirements that are mandatory under the DSAPT and best practice provisions relative to the flange gaps issue to improve the hazards.

- even slip resistant ground surfaces.
- a maximum horizontal flange gap width of 55mm for 'unhindered passage'.
- ground abutments no greater than 5mm bevelled.
- crossings should have an angle of 90 degrees or if this is unachievable no less than 70 degrees (AS 1742.7). *Historically, many of the reported incidents to date have happened on skewed / angled crossings.*
- appropriate signage advising of the angled crossings and flange gaps ahead to warn pedestrians of the hazards at each side of the crossings and enable decision making prior to use.
- compliance to the DSAPT for all other relevant parts relating to rail premises or infrastructure.

Recommended Conditions

For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on existing rail premises or rail infrastructure subject to the following conditions:

- the member concerned provides a strategy to the ARA and Commission within 12 months of this exemption to demonstrate how the member intends to improve the flange gaps within each access path within a level crossing by:
 - eliminating the flange gaps with a suitable product; OR

- reducing the flange gaps to a maximum horizontal width of 55mm; OR
- phase out by grade separation.

Include proposed timeframes for actioning.

- the member concerned conducts an audit of existing crossings against the DSAPT provisions and provides a written report to the ARA and the Commission for each jurisdiction within 24 months outlining the findings, proposed actions for remedy and proposed timeframes, taking into consideration the DSAPT target dates for full compliance by Dec 2022.
- following this audit, the member concerned provides reports every 12 months identifying each station where a level crossing forms part of an access path, proposed actions for remedy and proposed timeframes for compliance.
- The ARA member makes these reports available on their website and provides a copy to the Commission.

Assessment 2: DSAPT Part 2.6 'Access paths – Conveyances'

Exemption sought:

- *For a period of five years, an access path is only required at a single door of existing rail conveyances.*

Legislative Clause:

DSAPT Part 2.6, Access paths — conveyances

Application: Conveyances – Buses, ferries, trains, trams, light rail

- (1) Subject to subsection (3) and section 2.7*, an access path that allows continuous and unhindered passage must be provided with a minimum width of at least 850 mm.*
- (2) Subsection (1) applies to doorways and stairs, and between entrances, exits, allocated spaces and other essential facilities for passengers using wheelchairs and other mobility aids.*
- (3) If the conveyance exists or is ordered before the commencement of this section, the minimum width may be reduced to 800 mm at any doorway restriction.*

**Note: Part 2.7 mentioned in subsection 1 of the clause relates to minimum access path widths between the front wheel arches of a bus and is not applicable.*

Technical Assessment

The exemption sought seeks to nominate an access path to one single door for existing conveyances in lieu of all doors to direct passengers with disability to onboard accessible facilities, staff assistance to deploy boarding devices and closely located Customer Help Points for information on services and access to call centre staff, shelter, seating etc.

Part 2.6 of the DSAPT talks about an 850mm access path requirement applicable to 'doorways' of a conveyance on a train. The clause is not clear if all doorways are included, however, the intent of the clause can be investigated further by using a collective assessment of additional applicable clauses within the DSAPT relating to the process of boarding, accessing on board facilities and exiting a conveyance using part 3.2, 'Access for passengers in wheelchairs, etc' and part 12, 'doorways and doors', which are discussed further below.

DSAPT Part 3.2, Access for passengers in wheelchairs, etc

Application: Conveyances – Accessible rail cars

- 3.2(1). Passengers in wheelchairs or mobility aids must be able to enter and exit a conveyance and position their aids in the allocated space.*
- 3.2(2). If this is not practicable, operators must provide equivalent access by direct*

assistance. Note: See sections 33.3 to 33.6 in relation to equivalent access and direct assistance.

This clause is applicable to 'accessible rail cars' implying that not all rail cars are required to be accessible on a train. It requires that passengers with a mobility aids are provided the necessary access provisions to enter the accessible carriage, reach the nominated allocated space, position their mobility aid within that space and exit the conveyance when they reach their designated stop.

The next clause that needs to be considered as part of this exemption sought to understand the intent is part 12, '*Doorways and doors*', including any guidance provided within the DSAPT guide on doors.

DSAPT Part 12, Doors on access paths

Application: Conveyances - except dedicated school buses and small aircraft

- (1) Any doors along an access path must not present a barrier to independent passenger travel.*
- (2) Direct assistance may be provided through security check points.*

In addition to this clause, the DSAPT guide further discusses doors under part 12.2, *Activation of doors*.

DSAPT Guide Part 12.2(1), Activation of doors

On conveyances, it is acceptable for passengers or staff to activate only particular doors at stops rather than have all doors open unnecessarily. In such cases, and if not all doors are accessible, the Disability Standards provide that the accessible doors be clearly identified.

This information clarifies that not all doors on a conveyance are required to be accessible, provided the accessible doors are clearly identified with signage or symbols.

Part 16.1 and 16.5 of the DSAPT further confirms that not all boarding points are required to be accessible outside the conveyance doors:

DSAPT Part 16.1, International symbols for accessibility and deafness

Application: Conveyances

*Premises – except premises to which the Premises Standards apply
Infrastructure*

- (1) The international symbols for accessibility and deafness (AS1428.1 (2001) Clause 14.2, International symbol and Clause 14.3, International symbol for deafness) must be used to identify an access path and which facilities and boarding points are accessible.*

DSAPT Part 16.5, Accessibility symbol to be visible on accessible doors

Application: Conveyances – Ferries, Trains, Trams, Light Rail

The international symbol of accessibility must be clearly visible both inside and outside accessible doors on these conveyances.

Based on the above assessment, parts of the DSAPT imply not all doors are required to be accessible, however, it is acknowledged that if an accessible rail carriage is fully occupied or where allocated spaces are taken up when a passenger with disability attempts to enter, these user groups need to be provided with an alternative option to ensure operators and providers are meeting their legal obligations under the DDA and providing access to the conveyance. The ARA have confirmed that they will continue to meet this expectation by offering access at other conveyance entries on request with assistance available initially close to the nominated boarding point.

ARA Report & Supporting Documentation

The ARA report discusses the operational procedures to nominate a primary boarding point but stipulates that the boarding devices have the capability to be utilised at other locations, where required or requested by a passenger. The new Sydney Metro services are the exception to this exemption request and provide roll-on roll-off services at all doors. They discuss the intent of nominating a primary boarding point to benefit passengers and operators to prevent long waits for passengers requiring assistance to deploy boarding devices and align with accessible facilities onboard the conveyances.

Conclusion

At a minimum, the DSAPT requires access to be provided to essential facilities of a conveyance including accessible boarding point, accessible entry, access path to allocated spaces and exits. Signage including the international Symbol for Access is also required to nominate these facilities for people with disability for wayfinding purposes.

Although there is no mandatory requirement to provide every boarding point or conveyance door as accessible, the DSAPT is silent on the provisions for an alternative boarding point to facilitate passengers with mobility limitations that are unable to board at the nominated boarding point for any reason. The ARA members are to continue managing this as part of the conditions set out to ensure an alternative entry is offered to the conveyance at all times where allocated spaces or other essential services are unavailable through the designated boarding point.

It is acknowledged that nominating a single door on a conveyance brings various issues for people with disability such as being left on the platform where drivers do not notice an approaching passenger with disability because of the distance to the nominated boarding point or curvature of the platform. It is also acknowledged that users may be expected to travel a greater distance to reach nominated boarding points. These are not ideal situations, and it is in the ARA's best interests to continue to work toward providing as

many accessible boarding points as possible in the future to demonstrate their approach to accessibility for passengers with disability.

It is also important that passengers with disability are made fully aware of the alternative provisions available where needed.

Recommended Conditions

For a period of five years, an access path is only required at a single door rather than all doors of existing rail conveyances, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or
 - to ensure access to unique facilities, including an accessible bathroom (where provided); or
 - to ensure a passenger can both board and alight the rail conveyance; and
- the ARA member utilising this exemption installs signage in close proximity to the primary boarding point to notify passengers with mobility disability how access can be achieved to an alternative entry point, with staff assistance if required. The ARA member reports to the Commission within 12 months of the exemption on the progress and annually until all stations affected have signage erected.
- the ARA member utilising this exemption provides a management plan to the Commission within 3 months of this exemption detailing:
 - the management controls set out by the ARA member on how staff manage passengers with disability who require an alternative boarding point.
 - the methods used to educate passengers on the availability of the alternative boarding point and staff assistance.
 - the ARA makes the plan available to the public through its website and provides a copy to the Commission.
- the ARA member provides de-identified reports to the Commission on complaints made to it or an external agency (of which the ARA member is aware) alleging a failure in the provision of equivalent access. The report should identify each station that was the subject of the complaint.

Assessment 3: DSAPT Part 6.4 ‘Slope of external boarding ramps’

Exemption sought:

- *For a period of five years, where the relationship between the platform and rail carriage means that an external boarding ramp can only be provided at a gradient*

greater than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance to customers to ascend or descend the ramp.

Legislative Clause

DSAPT Part 6.4, Slope of external boarding ramps

Application: Conveyances - except dedicated school buses and small aircraft

The slope of an external boarding ramp must not exceed:

- (a) 1 in 14 for unassisted access (AS/NZS3856.1 (1998) Clause 2.1.8 (e) (including the notes)); and*
- (b) 1 in 8 for unassisted access where the ramp length is less than 1520 mm (AS1428.2 (1992) Clause 8.4.2 (a) and AS1428.1 (2001) Figure 8); and*
- (c) 1 in 4 for assisted access (AS/NZS3856.1 (1998) Clause 2.1.8 (e)).*

Technical Assessment

This ARA advise that the exemption sought is to clarify if staff are required to physically assist passengers with mobility aids to travel up or down a boarding ramp when embarking or disembarking a conveyance. The clause nominated by the ARA for this temporary exemption is part 6.4 of the DSAPT.

The intent of clause 6.4 is provided within the title, 'Slope of external boarding ramps'. The clause sets the parameters for rail operators and providers relating to the maximum slope permitted for safe access on an external boarding ramp for both assisted and unassisted use. Similar to commercial environments, the ramp gradient cannot exceed 1 in 14 for independent access or where the length of the ramp does not exceed 1520mm, the gradient can have a steeper grade up to 1 in 8 for independent use. A steeper ramp grade is permitted up to a 1 in 4 slope for 'assisted access'.

The ARA confirm that the exemption sought is to confirm if 'assisted access' means that staff are required to manually push passengers in their mobility aid up and down ramps when embarking and disembarking a conveyance. The DSAPT clause talks about maximum slopes for assisted and unassisted access and does not address the expectations of staff relating to operational procedures.

To further investigate the intent on the use of boarding devices, part 8.3 of the DSAPT and part 8.2(2) of the DSAPT guide have been assessed below.

DSAPT Part 8.3 Use of boarding devices

Application: Conveyances - except dedicated school buses and small aircraft

- (1) If a conveyance has a manual or automatic boarding device, it must be available for use at all designated stops.*
- (2) An available boarding device must be deployed if a passenger requests its use.*

Part 8.3 talks about the availability of a boarding device and requirements of staff to deploy the device only.

The DSAPT guide under part 8.2(2) further clarifies the responsibility of operators by stating:

'Although operators would normally be responsible for activating boarding devices, this should not be seen as diminishing the principle that independent access is desired under the Disability Standards'.

Part 37.3 of the DSAPT guide talks about customer service programs and recommends education and awareness programs including *'training in the use and upkeep of accessible features such as boarding ramps, wheelchair lifts, hearing loops and tactile tiling'.*

In my professional opinion, 'assisted access' is not intended to require staff to physically push passengers up and down ramps, however, it is acknowledged that the steeper ramps between 1 in 8 and 1 in 4 require assistance and if this is not provided by staff and a passenger with mobility limitations arrives unaccompanied, it may prevent the passenger from accessing the service and subsequently place the stakeholders at risk of a complaint under the Disability Discrimination Act. It is therefore recommended that this exemption is granted with conditions set out to work toward phasing out these steeper slopes, with the objective of achieving a maximum grade of 1:8, which is deemed safe and accessible for independent use.

To scale the issue, the ARA were asked to confirm the number of locations where the steeper ramps occur. 65 stations out of 222 across the Metro network and 90 V/Line stations have ramp grades between 1 in 8 and 1 in 4 and based on the high level of locations confirmed, it is in the public's best interest for these stations to be reviewed on a case-by-case basis to ascertain a strategy to reduce the need to provide assisted access overall to board and alight a conveyance. It is acknowledged that the Metro network have improved 59 of their stations to raise the platforms throughout the previous exemption period.

ARA Report & Supporting Documentation

The ARA have concerns over the safety of staff and customers with regard to manually pushing people with disability in their mobility aid up or down a ramp and make reference to state based occupational health and safety laws.

The report discusses the requirement at many stations for boarding devices which have varying slopes to board and alight a conveyance.

The report discusses customer feedback provided indicating that the preference is for staff not to push the user up or down a ramp as the end users prefer this assistance to be provided by a carer who is familiar with their device. All operators accept companion cards to provide free travel for these carers to support this preference.

The ARA presented information regarding the train station locations where steeper ramps between 1 in 8 and 1 in 4 occur, including identification of each station.

Conclusion

The DSAPT requires boarding devices to be provided for people with disability to embark and disembark conveyances, where required, at all designated stops and to be deployed by staff. The DSAPT also recommends that staff are trained on how to use these boarding devices to ensure they are presented in a safe manner for use.

The DSAPT permits ramps gradients between 1 in 8 and 1 in 4 with assistance but does not specify who the assistance is to be provided by.

Following the technical assessment, it is my professional opinion that the DSAPT does not intend for staff to manually push passengers in their mobility aids up and down ramps, mainly because of the potential for occupational health & safety hazards, however, it is acknowledged that this discussion may be interpreted as subjective. Therefore, it is recommended that the exemption be granted with conditions set out below to work toward providing a safer and more independently accessible environment for passengers with mobility limitations in the future.

Recommended Conditions

For a period of five years, for existing rail stock, where the relationship between the platform and rail carriage means that an external board ramp can only be provided at a gradient greater than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance in ascending or descending the ramp.

This exemption is granted on the condition that:

- A strategy is developed by each ARA member and provided to the Commission within 12 months of this exemption on how platforms can be improved at nominated boarding points on a case-by-case basis.
Include timeframes for action.
- the ARA member reports to the Commission annually thereafter on the progress to demonstrate how the boarding ramp gradients are being improved at each station.
- The ARA member makes these reports available on their website and provides a copy to the Commission.
- the ARA member utilising this exemption ensures that service users can obtain information about restricted access at any particular rail station or infrastructure;
 - at the location of the restriction, and
 - via the ARA members' websites and downloadable fact sheets, and
 - in person at Travel Centres where they exist, and
 - via a telephone call to the Customer Contact Centre where available, and

- via any other forms of communication provided by the ARA member (such as a mobile app).
- any ARA member utilising this exemption provides free travel for any assistant accompanying a person with disability who requires assistance to use the ramps between 1 in 8 and 1 in 4.

Assessment 4: DSAPT Part 8.2 'Boarding - When boarding devices must be provided'

Exemption sought:

- *For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance.*

Legislative Clause:

DSAPT Part 8.2, When boarding devices must be provided

Application: Conveyances - except dedicated school buses and small aircraft

- 1) *A manual or power assisted boarding device must be available at any accessible entrance to a conveyance that has:*
 - a) *a vertical rise or gap exceeding 12 mm (AS/NZS3856.1 (1998) Clause 2.1.7 (f)); or*
 - b) *a horizontal gap exceeding 40 mm (AS/NZS3856.1 (1998) Clause 2.1.8 (g)).*

Technical Assessment

This temporary exemption requests that the provision of a boarding device is acceptable at a single door in lieu of all doors of a conveyance for five years. It ties in with the assessment for an access path to a single door of a conveyance above (exemption No. 2), with a similar outcome. The assessment considers a number of applicable clauses from the DSAPT relating to boarding points, doors and signage to assist with understanding the intent of the clause.

The wording under part 8.2 is subjective in that it requires a boarding device 'at any accessible entrance' to a conveyance, however additional clauses presented in the DSAPT and guide provided below sets the minimum benchmark indicating not all boarding points, conveyance doors or rail cars are required to be accessible to achieve compliance, which in turn aligns with where a boarding device would be deployed by staff for people with disability when requested.

- access for people in wheelchairs to be provided to accessible rail cars, including an accessible entry to the conveyance, access to the allocated spaces and to exit the conveyance (DSAPT part 3.2)
- International symbol for accessibility with directional arrows to be provided to identify the access path, accessible boarding points, accessible doors and other facilities (DSAPT part 16.1, 16.5 & 16.3)
- The guide also talks about where doors to a conveyance are not accessible, they are required to be clearly identified (DSAPT Guide part 12.2(1)).

ARA Report & Supporting Documentation

The ARA confirm that the conditions of the previous exemption period have been adhered to with equivalent access measures provided at an alternative door of the rail conveyances where an allocated space is not available, to ensure access to unique facilities and to ensure passengers can board and alight the rail conveyance, all of which are important to maintain.

The ARA confirm that boarding devices can be provided at other locations where required, however, there is a preference to nominate a single door to have staff assistance in close proximity and avoid passengers with disability having to wait long periods for assistance if they were not at an allocated location visible to staff. The provision of a nominated door for the boarding device aligns with the nominated conveyance boarding point, door, allocated spaces and onboard facilities.

Conclusion

The review of relevant DSAPT clauses and discussions within the DSAPT guide relating to obligations on operators and providers when providing access to and from a conveyance for passengers with disability indicates that not all boarding points or conveyance doors are required to be accessible, provided the accessible facilities have been identified appropriately with signage.

Compliance can be achieved by ensuring passengers can gain access to essential facilities including an accessible boarding point, accessible entry door, boarding device which is to be available at all designated stops and deployed by staff when requested, allocated spaces, toilets where provided and signage to identify the location of these accessible facilities.

Similar to the discussion above under assessment no. 2, although the DSAPT indicates that not all doors are to be accessible, passengers are to be afforded the option of an alternative entry to the conveyance in the event they are unable to enter at the nominated boarding point to align with the intent of the Disability Discrimination Act, provide an inclusive service and protect stakeholders. The ARA have confirmed that this option has been and will continue to be available and that any other door of the existing conveyances can be utilised if required by passengers.

Recommended Conditions

For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of an existing rail conveyances, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or

- to ensure access to unique facilities; including an accessible bathroom (where provided) or
 - to ensure a passenger can both board and alight the rail conveyance.
- any ARA member utilising the exemption provides a report to the Commission and ARA within 12 months of this decision on measures taken to ensure that staff and passengers are adequately informed of both the doors of rail conveyances at which boarding devices are available and the equivalent access measures available.
- that the report be updated every 12 months, and
- any ARA member concerned ensures that service users can obtain information about specified boarding points at any particular rail station or infrastructure:
 - at any platform at which there is a specified boarding point
 - via the ARA members' websites and downloadable fact sheets, and
 - in person at Travel Centres where they exist, and
 - via a telephone call to the Customer Contact Centre where available, and
 - via any other forms of communication provided by the ARA member (such as a mobile app).
- that ARA make the report available on their website and provide a copy to the Commission.
- the ARA member provides de-identified reports to the Commission on complaints made to it or an external agency (of which the ARA member is aware) alleging a failure in the provision of equivalent access. The report should identify the station that was the subject of the complaint.

Appendix A: Expertise & Experience

Alison Shiels is a highly experienced access consultant that has been working in the field since 2012, which has provided her with a sound understanding of stakeholder's obligations under evolving Disability Legislation, Codes & Standards.

Her experience has included large and complex access projects; hospitals, health care buildings, multi-use developments, aged care facilities, public transport environments, educational facilities, office, retail, hotels, sports precincts, aquatic and recreational facilities.

Alison's has strong technical abilities with applying accessibility legislation, having trained up initially and worked alongside a team of building surveyors from 2012-2018 in Western Australia, relocating to Victoria in 2019 to join Equal Access Disability Access Consultants.

Alison is accredited with the ACAA, the peak national body for access consultancy in Australia and a major partner in advancing equity of built environmental accessibility for people with a disability.

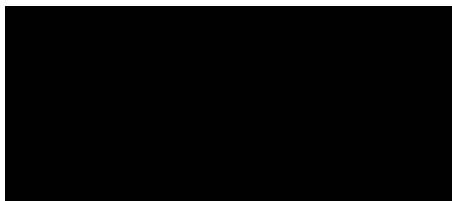
Affiliations/Qualifications:

- ACAA Accredited Member No. 417
- Diploma in Access Consulting (Bridging)
- Cert IV Access Consulting
- Changing Places Accredited Assessor CP004
- Accredited SDA Assessor SDA000048
- Livable Housing Assessor. Registration No. 20051
- Introduction to Universal Design, Centre for Universal Design, Australia
- Manual Handling & Hoist Training, Rocky Bay Western Australia
- Disability & A Good Life, Thinking through Disability, UNSW, Sydney
- Understanding the NCC Disability Access Provisions, ABCB
- Member, Global Alliance on Accessible Technologies & Environments (GAATES)
- Member, People with Disability (PwD)

Should you require any further clarification or assistance, please do not hesitate to contact the undersigned on [REDACTED] or via email office@equalaccessgroup.com.au

Yours faithfully,

EQUAL ACCESS



ALISON SHIELS

Accredited Access Consultant

Association of Consultants in Access Australia Inc.

Accredited Membership [REDACTED]

Notes:

1. This report has been prepared in accordance with the agreement between the Australian Human Rights Commission and Equal Access. The assessment outlined within this report is based upon the view held by Equal Access. Within the limitations of the agreed scope of works the assessment undertaken within this report has been performed in a professional manner, in accordance with generally accepted practices and using a degree of expertise consistent with professional and consulting practices.