

Disability and Transport Standards
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2022 Review of the Disability Standards for Accessible Public Transport 2002

Thank you for the opportunity to make a submission to the 2022 Review of the Disability Standards for Accessible Public Transport 2002. This is an important review, emerging at a time when the transport sector is facing new challenges and undergoing a period of change. This submission addresses, to varying extents, current and persistent accessibility issues, challenges regarding emergent technologies, as well as limitations of the present standards.

About us

Advocacy for Inclusion incorporating People with Disabilities ACT¹ is an independent organisation delivering reputable national systemic advocacy informed by our experience in individual advocacy and community and government consultation. We provide dedicated individual and self-advocacy services, training, information and resources in the ACT.

As a Disabled People's Organisation, the majority of our organisation, including our Board of Management, staff and members, are people with disabilities. Advocacy for Inclusion speaks with the authority of lived experience. It is strongly committed to advancing opportunities for the insights, experiences and opinions of people with disabilities to be heard and acknowledged.

Advocacy for Inclusion operates under a human rights framework. We uphold the principles of the United Nations Convention on the Rights of Persons with Disabilities and strive to promote and advance the human rights and inclusion of people with disabilities in the community. Advocacy for Inclusion is a declared public authority under the Human Rights Act 2004.

¹ On March 24, 2021, Advocacy for Inclusion (AFI) officially merged with People with Disabilities ACT (PWDACT), a systemic advocacy organisation based in the ACT. Herein, reference to 'AFI' also acknowledges the values and philosophies of PWDACT.

Background

Transport is a public good and must be available to all - it's a right

Transport is core infrastructure and a public good and should be accessible to all Australians. Mobility is a basic human freedom, a right *and* a universal public utility. The quality of a nation's transport is a widely used indicator of social progress and economic wellbeing around the world. As such the policy goal should be to make transport available and accessible to all Australians in the same way that clean drinking water, working sewage, national defence, emergency services, telecommunications and other essential infrastructure need to be available to all of us. Private operators provide transport by borrowing a social licence (as well as shared publicly funded infrastructure) and should be required to make it accessible. Segregation of people with disability within transport should be viewed in the same way as exclusion on the grounds of race, religion or sexuality. It should not be accepted or acceptable.

Transport is a right for people with disability – Article 9 of the UN Convention on the Rights of People with Disability (signed by Australia) says

"States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

Why transport?

Transport is an essential service for people with disability to achieve full social and economic participation in the community. Across Australia, 17 per cent of people with disability aged 15 years and over who leave their homes have difficulty using some or all forms of public transport.² That is one in six. One in seven are not able to use public transport at all. There are a range of barriers to public transport, including:

- Access issues due to steps
- Difficulty getting to stops and stations
- Fear and anxiety due to vehicle design
- Public attitudes and personal safety
- Staff conduct
- Issues with boarding assistance animals
- Lack of seating or difficulty standing.

² Australian Institute of Health and Welfare (2020) [People with Disability in Australia](#). Cat. No. DIS 72, AIHW, Canberra, p. 124.

A lack of access to public transport has discriminatory and disabling consequences these include contributing to

- Reduced wellbeing due to social isolation – a recent [report](#) by Deloitte and the Achieve Foundation calculated a \$57 billion wellbeing bonus to Australia if we deliberately took steps to include people with disability
- Difficulties maintaining economic and social participation
- Additional vulnerability to situations of violence and abuse as people are unable to mobilise (or leave) and find refuge or services
- Inability to gain and retain paid employment
- Barriers to education and learning
- Poverty and cost of living pressures (including both the costs of on demand transport and reduced earning capacity)
- Downstream costs for NDIS and formal and informal support systems – accessible transport is one area where mainstream systems have not stepped up leaving the NDIS as an ‘oasis in the desert’ as noted in the Governments own NDIS review.
- Delayed hospital discharge
- Falls, injuries and accidents leading to admission to acute care, nursing care and early death

Australia has legally binding obligations arising under the United Nations *Convention on the Rights of Persons with Disabilities* (UN CRPD), which it ratified on 17 July 2008. This includes general obligations under [Article 4](#), as well as accessibility obligations under [Article 9](#), which requires state parties, among other things, to take appropriate measures to ensure equal access to transportation. The importance and broader value of accessible transport is also clearly articulated as a policy priority in Australia’s Disability Strategy 2021-2031.³

Our approach to this submission

We note this is a broad review which invites commentary on whether the standards have succeeded, whether they are fit for purpose given changes in transport modalities and infrastructure and how they might be improved.

This is the fourth review of the Transport Standards. While there has been ongoing attention and adjustments made to the Standards over time, further attention needs to be paid to persistent and emerging issues. For example, in their submission to the 2018 Review, the Australian Federation of Disability Organisations (AFDO) found that only 5 out of the 22 recommendations from the prior reviews had any evidence of action.⁴

This submission will first take stock of the current context and the extent to which States and Territories have met key targets. It will then raise specific exclusions from the standards and their broader implications. The final sections of this submission will focus on challenges raised by emergent technologies, the importance of incorporating whole-of-journey perspectives into the Standards, as well additional concerns.

³ Department of Social Services (2021). [Australia’s Disability Strategy 2021-2031](#). ACT, Canberra: Commonwealth of Australia, p. 12.

⁴ Australian Federation of Disability Organisations (2018). [Submission on the Review of the Disability Standards for Accessible Public Transport 2002](#), p. 6.

The submission suggests a change of approach or in the absence of that, some policy priorities.

Current context

Generally speaking our view is that while the Standards have provided guidance and prompts to pockets of change they have not succeeded in transforming public transport infrastructure to respond to the needs of people with disability nor are they fit for purpose given the urgent imperatives to develop a sustainable, accessible, modern transport system which meets the needs of an ageing population. They also have not adapted to a modern transport context which has seen the rise of on demand transport, multimodal transport, active travel and shared spaces. A slow, staggered, uneven approach to transport accessibility has countless human, social and economic costs and is not acceptable or sustainable.

Under the Disability Discrimination Act 1992, Australia's public transport systems were to be fully compliant with the 2002 Transport Standards by December 31, 2022.

This target was not met or even approached.

The standards included the availability of lifts, access paths, toilets, ramps, handrails and grabrails, lighting, hearing augmentation, and more. Approximately half of Australia's public transport infrastructure is deemed to have actually met their targets.⁵ In the ACT, for example, older inaccessible Renault diesel buses continue to be used into 2023.⁶ It was estimated that 40 per cent of Queensland and Western Australia's train stations, 73 per cent of Victoria's trams, and one-third of New South Wales' train and ferry stations remain inaccessible.

The relevance and utility of the Standards also needs to be interrogated. At present, the standards largely focus on the vehicles themselves. But this is a limited view and fails to take into consideration how public transport is actually used. This issue will be returned to in a latter section. It is clear that many of the bus, train, and tram systems around the country have failed to meet their targets. What is unclear, however, are the consequences for States and Territories in their failure to comply.

The current system of anti-discrimination law and accountability mechanisms have remained reactive rather than proactive in addressing issues. This relies on individuals being willing and sufficiently resourced to make a complaint in relation to unlawful discrimination. This can be a difficult, dangerous and daunting process. The Australian Human Rights Commission stated that it is, 'concerned at the current operation of the disability standards due to the lack of appropriate accountability mechanisms for their implementation. Non-compliance is an issue, and it is not easy to enforce.'⁷

While it is not within the scope of this submission to address the broad scope of issues with Australia's disability discrimination frameworks, however the lack of progress under the transport standards spotlights key flaws with the current framework and the need for a different approach.

⁵ Xiao, Alison (2023) '[Australia misses 20-year public transport accessibility target as many train and tram networks fail people with disabilities.](#)' *ABC News*, 17 January 2023.

⁶ Twyford, Lottie. (2023) '[Broken promise': Government accused of breaching disability standards with old buses.](#)' *RiotACT*, 12 January 2023.

⁷ Australian Human Rights Commission (2021) '[Free and Equal: A reform agenda for federal discrimination laws.](#)' Sydney, NSW: AHRC, p. 105

Lodging and pursuing individual complaints against providers for a lack of compliance is high risk and unproductive given the need to take matters to court and the possibility of costs being awarded against individuals – as happened in a transport matter. Without a viable complaints mechanism Standards are unlikely to be complied with. Only changes to Discrimination Law or intentional regulation by Governments is capable of delivering change.

We would argue that universal access to transport is a core public good and a minimal expectation of people in a modern functioning urbanised country and change should not wait a broader reform agenda in discrimination law.

After thirty years of failure Governments should now change approach – either speedily amending the DDA to create an oversight and enforcement mechanism with teeth or directly regulating providers in the same way Governments regulate vehicles for safety or planes for air-worthiness.

Problematic exclusions

The incorporation of school buses into the Transport Accessibility Standards has been a persistent issue and is worth spotlighting as it is uniquely counterintuitive and perverse.

At present, and since the inception, school buses have been excluded from the Standards. If Governments really cared about inclusion school buses would have been the first thing they made accessible.

Not only does this exemption risk undermining the pursuit of inclusive education, it also sends a signal to the market that the government is not serious about regulation.

The lack of accessible dedicated school buses can have a major impact on families with one or more children with disability who live in or on the outskirts of a town where the dedicated school bus service travels past or nearby. Such families need to find alternative accessible transport, but in the majority of cases, they are likely to bear the responsibility and costs associated with transporting their children to and from school.

Children with disability who are unable to catch dedicated school buses risk missing out on the shared experience of travelling to and from school with their siblings, friends, and peers. They also risk being excluded from attending school excursions or other events if the dedicated school bus or other chartered bus is inaccessible.

This exclusion threatens the broader ambition of inclusive education. Not only is access to education universally recognised as a key pathway to the achievement of social, economic, political, and human rights, it is intrinsically linked to key developmental indicators and milestones from child development to employment. Access to education – in every sense – is formative as it underpins other rights and has impacts across the life course.

We recommend removing dedicated school bus exemptions from the Transport Standards.

We also support including air travel and ride sharing in the standards (we refer you to submissions by AFDO, NITAN and PWDA) for more detail.

Ensuring fit-for-purpose Standards

The current expansion of the electric vehicle (EV) market highlights the need to adapt the Transport Standards. The ACT currently has the fastest growing fleet of EVs.⁸ Despite high levels of EVs, public charging infrastructure and facilities throughout the ACT remain sparse and often inaccessible. These newer vehicles are also being built with features that make them incompatible with disabled driver modifications. Designers of electric vehicles and accompanying charging infrastructure must do better at ensuring universal access to their products.

The expansion of EVs, and broader shift away from a reliance on fossil fuels, has and will continue to have implications for the transport industry. For example, Australia, unlike other parts of the world, does not currently require electric vehicles to generate or emit sound. The lack of noise from EVs is an important safety issue, not just for people with vision impairments but for everyone. It is critical that accessibility and disability perspectives remain front and centre as this sector transforms.

The case of electric vehicles underscores the need for the Transport Standards to incorporate consistent and improved approaches to emergent technologies. This is also critical in the case of ridesharing and on-demand mobility services. Shared on-demand mobility services emerge at a fast pace and can rapidly change the landscape of public transport. However, shared mobility services are largely designed without considering the access needs of people with disabilities. This puts these passengers at risk of exclusion.

It's getting harder to move around

In addition, there are increasingly complex considerations arising from an interplay between new technology, changes in use of urban spaces, government policy directions and social, climatic and economic change which are making it harder for people with disability to move around. For some people transport disadvantage is getting much worse.

Issues for people with disabilities include a rapid growth in the uptake of micro-mobility devices which can present a hazard to some people with disability in shared paths and an obstruction to seamless paths of travel. There is a growth in the use of shared zones as an urban design feature especially in larger cities – these can be confusing and hazardous spaces for people who are blind or have other sensory disabilities. Changes in vehicle design are also impacting people with disabilities. Larger, more complex electronic vehicles resist some disabled driver and passenger modifications and can make vehicles harder for people with disabilities to travel in. Modern SUV style cars with high seats and a large gap between the door and the seat due to side airbags are inaccessible to many wheelchair users.

In some jurisdictions there are creeping changes to medical requirements around drivers which are restricting larger numbers of people from driving private cars.

Where change is absent it is often in areas that are unhelpful to people with disabilities seeking to move around. For instance, air travel remains expensive, precarious and dangerous for people with disabilities and their equipment. At the other end of the scale climate change is

⁸ ACT Government (2023) [‘Canberra drivers lead the way in electric vehicles.’](#) Media Release, Shane Rattenbury MLA. 1 May 2023.

impacting the state of already neglected paths and roads which people with disabilities may use for active travel. Older areas can become completely impassable.

These mix of issues which are creating an increasingly hostile and difficult transport context for some people require that public transport lift its ambitions, accessibility and scope for people with disability as we move into the 2020's.

Accessible transport must take a person-centric, whole-of-journey perspective. It is not enough to aim to have a specific percentage of the transport fleet, i.e., trains, trams, buses or taxis, meet specific accessibility standards. The motivation or desire to use public transport rarely corresponds to such a straightforward or direct logic. Instead, accessible public transport needs to take into account how people actually use – or want to use – different elements of the broader system and network.

A whole-of-journey perspective goes beyond the vehicles themselves and focuses attention on the connective infrastructure. For example, the availability of tactile or sensory infrastructure and digital supports, the attention to shared paths, accessible streets and kerbs, as well as physical infrastructure in and around stops and stations. If one element of this connective fabric breaks down, then it does not matter that the train, bus, or tram met a specific accessibility standard.⁹ The transport journey must be seen and incorporated into the accessibility standards in its entirety.

Accessible vehicles are important, but they represent one piece of the broader puzzle. Focusing only on this infrastructure disregards the fact that public transport journeys begin before we board the service and continue after we have left it.

The pursuit and achievement of accessible public transport standards becomes increasingly important as our cities transform. For example, many cities around the world have banned or are banning older vehicles – specifically diesel vehicles – from parts of the city.¹⁰ There is a growing movement taking aim at motor vehicles in the quest to solve traffic congestion, reduce carbon emissions, and create more liveable cities. Reorienting urban areas away from cars in favour of pedestrians, cyclists and mass transit underscores the importance of accessible public transport. Without accessible means of transit, people with disability risk being cut off from urban areas.

Finally, accessibility is not just about access to resources. It also means the provision of quality transport experiences. There are intrinsic limitations inherent in pursuing a one-size-fits-all approach. An illustrative example of this is the uniform use of transit vans as Wheelchair Accessible Taxis in the ACT. Through our advocacy, we note that some users find these specific vans not only uncomfortable but also unsafe. As such, there is a general need for attention to passenger comfort, safety, as well as flexibility and choice.

⁹ World Health Organization and World Bank (2011) [World Report on Disability](#). World Health Organization, p. 179

¹⁰ See e.g., C40 Cities (2022) [Green and Healthy Streets Declaration: How cities are creating streets that put people first](#). Annual City Progress Report.

Recommendations and concluding observations:

AFI are not a national peak and are not leading work in the disability community on accessible transport, so we defer to the joint submission/s from the Australian Federation of Disability Organisations in conjunction with the National Inclusive Transport Action Network and the submission from People with Disability Australia and we support their recommendations.

We also share sector frustrations that issues raised in multiple reviews of the Transport Standards are not acted on or reflected in subsequent iterations of the Standards.

This means we fail to meet human rights obligations, miss opportunities to create modern and fit for purpose transport systems in Australia which meet the changing needs of the population and progressively corrodes trust that the Australian Government is operating public consultations in good faith or intends to meaningfully act on them.

Noting the broad scope of the Review, we do offer some concluding observations and areas of emphasis:

1. Governments should acknowledge that the current disability discrimination framework is not capable of transforming transport to respond to the needs of Australians with disability. It should seek to either amending the DDA to create an oversight and enforcement mechanism with teeth or directly regulate providers in the same way Governments regulate vehicles for safety and worthiness.

However in the absence of this

2. We strongly support recommendations that Rideshare, school bus and air travel operators provide public transport services and therefore, they need to be held accountable under the Accessible Public Transport Standards
3. There should be nationally consistent reporting and compliance targets should be replaced by compliance requirements. The Standards redesign process should focus on (genuine) co-design, compliance and independent reporting.
4. Any new standards should set high, accelerated and intentionally ambitious requirements for public transport accessibility in response to changes in transport modalities, urban spaces and places and vehicle design as well as population ageing
5. The exemption of school buses is problematic and should be eliminated
6. The standards should sit in a 21st century context and address the interplay between spaces, places and emerging modalities including uptake of ridesharing apps, requirements for shared spaces, connective pathways and infrastructure, on demand transport and micro mobility devices
7. Outside of the Standards governments should undertake adjacent work which:
 - ensures accessibility is prioritised in policies and planning around urban spaces and transport infrastructure by local, State and Territory Governments; and
 - develop programs of industry development work, regulations and market leverage to ensure that new vehicle designs and new transport options, including ride sharing Apps and operators, are accessible

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