

# 2012 Review of the Disability Standards for Accessible Public Transport

## Executive Summary

Queensland Rail is committed to removing barriers to access and providing equivalent access to services in line with the requirements of the *Disability Standards for Accessible Public Transport 2002* ("Transport Standards"). We have continued to implement practical solutions for independent access for customers with disabilities to rail premises, infrastructure, rollingstock and communications. However, in certain circumstances full compliance with the relevant access requirements is challenging and may not be practicable given the constraints of a rail environment.

Queensland Rail support changes to the Transport Standards to identify performance based solutions as an alternate means of satisfying requirements to provide equivalent access. Furthermore, the Transport Standards require greater guidance and encouragement for Operators/Providers to embrace new technologies in formulating equivalent solutions.

The introduction of alternative performance based solutions and clear guidance on acceptable outcomes would support the objects of the *Disability Discrimination Act 1992* (Cth) by:

- Providing an approach consistent with the framework utilised by the *Building Code of Australia* ("BCA") and the *Disability (Access to Premises – Buildings) Standards 2010* ("Premises Standards");
- Allowing and encouraging innovative solutions to meet performance requirements through the development of new technologies; and
- Providing certainty in relation to what levels of access would satisfy the general non-discrimination requirements of the DDA and reduce the reliance on establishing unjustifiable hardship.

Queensland Rail's submission to the 2012 Review of the Transport Standards outlines:

- Progress meeting the 2007 and 2012 target date requirements;
- Challenges and impracticalities in meeting these requirements; and
- Additional accessibility initiatives undertaken by Queensland Rail.

Queensland Rail has also provided six recommendations to assist improving the efficiency and effectiveness of the Transport Standards in eliminating discrimination on public transport as far as possible.

## Recommendations

1. The Transport Standards should acknowledge the latest Australian Standards and encourage Operators/Providers to use where practicable. Additionally, Queensland Rail would embrace the opportunity to assist the development of performance based

outcomes or amendments to the current Transport Standards to accommodate changes in design standards.

2. Amend the Transport Standards to include a well-articulated, proactive process for Operators/Providers for guiding performance based outcomes. Provision of clear processes and guidance will assist the development of a consistent national approach that considers both rail environment constraints and customer requirements.
3. The relevant sections of the Transport Standards for boarding, vertical and horizontal gaps are updated to reflect the physical constraints of an existing rail environment and, in particular, curved platforms. One option is to facilitate boarding at a designated location on a platform.
4. Further guidance for determining and measuring compliance is necessary for Operators/Providers to effectively manage and report upon their obligations.
5. The Transport Standards are updated to identify performance based outcomes and guidance for alternative access solutions which take into account the physical constraints of a narrow gauge railway
6. The development of consistent, national interpretations of requirements in relation to specific situations, constraints and customer priorities is required. Queensland Rail would encourage collaborative work with the Australian Human Rights Commission, other public transport Operators/Providers and customers with disabilities to establish achievable and agreed alternative solutions given design, service life and funding requirements.



## Introduction

Since the introduction of the *Disability Discrimination Act 1992* (Cth) (“DDA”), Queensland Rail has worked to systematically identify and remedy many of the barriers that have historically impeded independent travel for customers with disabilities. Accessibility on Queensland Rail services has been achieved through community consultation, extensive investment, genuine organisational commitment and a strong customer service philosophy. Through this commitment, Queensland Rail has been and continues to be recognised as a leading proponent in the provision of accessible public transport services. This progression has also been facilitated through the Queensland Government who have supported Queensland Rail towards its long term goal of accessible rail services for all customers.

In support of the objectives outlined in the DDA, Queensland Rail through its 2007-2012 Action Plan has invested extensively to improve train and station accessibility. As a part of this investment, Queensland Rail undertook meaningful consultation with the disability sector both during design and implementation of these upgrades. Yet, despite excellent progress to date, meeting future compliance target dates will become increasingly difficult.

## 2007 and 2012 Target Date Reviews

Queensland Rail operates a range of urban, inter-urban, regional and tourist passenger services. Last year alone, Queensland Rail operated approximately 260,000 passenger services completing more than 50 million passenger journeys. With a history spanning nearly 150 years, Queensland Rail’s transport network consists of a diverse range of infrastructure and trains, each with a unique set of challenges to meet the obligations under the Transport Standards.

### Trains

The service life of a train generally far exceeds other modes of public transport. As such, some of the trains utilised to service the Travel and Tourist network are aged well over 20 years old and offer limited accessibility. Despite the long service life of some Queensland Rail’s older fleet, Queensland Rail with the support of the Queensland Government has invested heavily in improving the trains on the City, Travel and Tourist networks.

Consisting of over 200 trains, investment into the accessibility of Queensland Rail’s City network’s trains has been prioritised due to its significantly higher use than the regional train networks. Through a scheduled renewal program and the introduction of new fleet, City network trains will achieve compliance far sooner than the legislated timeframes.

In contrast are the trains utilised to service Travel and Tourist networks. While only seven trains are used to service these networks, these trains pose significant challenges to meet the Transport Standard requirements. Although less patronised than the City network fleet, Queensland Rail has worked hard to make improvements across the majority of the Travel and Tourist network fleet. However, Queensland Rail’s traditional fleet due to the age, nature of construction and narrow rail gauge possesses limited accessibility. A small number of carriages have been modified to allow a degree of accessibility, but this fleet largely relies on the provision of direct assistance and use of an on-board wheelchair.



## Stations

Significant investment has enabled the improvement of station accessibility across all three of Queensland Rail's networks. Through continued community engagement, Queensland Rail has provided accessibility improvements at 117 stations including 17 major station upgrades. Despite this effort and investment, there continues to be difficulty achieving compliance with elements requiring full compliance across such a broad and complex network. Whilst investment has improved compliance to many elements, community consultation suggests that investment towards key accessibility features would achieve far more beneficial outcomes than strict compliance to the target dates in the Standards. With Queensland Rail's genuine commitment to engagement with the disabled sector and focus on the best accessibility outcomes for people with disabilities, Queensland Rail now far exceeds many of the requirements of the 2007 and 2012 target dates for many of the compliance elements.

Like the City network, stations on the Travel network have undergone significant accessibility upgrades. However, unlike the City network, the built environment for the Travel network stations is considerably less complex and upgrades can be performed with less costly engineering constraints. As such, Travel network stations are very close to full compliance and well exceed the requirements of the 2007 and 2012 target dates across various access provisions.

## Impracticalities and Difficulties

### General Challenges

By mandating how compliance with the objects of DDA is to be achieved in public transport, the Transport Standards impose massive infrastructure costs on transport Operators/Providers. From the perspective of providing outcomes for people with disabilities, the method and approach mandated by the legislation raises a number of questions. As there have been no fundamental changes resulting from the 2007 review of the Transport Standards, many residual issues remain unresolved. Some of the general outstanding issues include:

- The timeframes for compliance do not take into account design and service life;
- Interpretation of some of the specific requirements of the Transport Standards; and
- Inflexibility associated with the practical application of the Transport Standards.

Generally, whilst the Transport Standards have made an excellent effort to address accessibility from a common standpoint, differences between transport modes present significant problems in application. From a rail transport operator perspective, trains and stations are considerably different to the conveyances and infrastructure of other transport modes. An example of a key impact of the Transport Standards relates to the target dates and a train's service life. Generally, the service life of a train far exceeds that of other modes of public transport. Under the Transport Standards' target dates, premature upgrades or replacement of trains outside a train's natural service life are required and in Queensland Rail's case, at significant cost to public funds.

Further to the differences between modes of transport are the differences between various rail operators within Australia. Generally, rail operations between States vary significantly and as such, each operator faces a unique set of challenges in applying the Transport Standards to their infrastructure and conveyances. One such challenge for Queensland Rail is the narrowness of its



rail gauge which determines the width of its trains. There is no practical mechanism to take these issues into account and provide certainty to a rail Operator/Provider. Exemptions under the Transport Standards are intended to be temporary only and a defence of unjustifiable hardship can only be tested by a costly court process.

Another example of a difficulty with the Transport Standards is sequencing of accessibility element upgrades. The distinction between those elements which require earlier full compliance versus those which are allowed longer to meet full compliance do not reflect optimal access outcomes for people with disabilities. Priority seating is one such example of poor prioritisation. Under the target dates set out within the Transport Standards, on board priority seats were required to be fully compliant by 2007 whereas compliant access pathways, a key element for a person to be able to use a service is only required to be fully compliant by 2032.

Other weaknesses in the Transport Standards include the failure to: quantify improvements in attitudinal change; define or explain important terms such as 'direct assistance'; and appropriately recognise innovative approaches to accessibility. The Transport Standards do not address accessibility issues effectively for people with certain disabilities, such as those with an intellectual or mental health disability, hidden disabilities, such as those recovering from illness or disease. Furthermore, the lack of guidance and clarity for determining and measuring compliance prevent an Operator/Provider from effectively managing obligations under the Transport Standards.

## **Legal Challenges**

Comprised of an Act, associated Standards, guidelines and other associated instruments, compliance with the DDA presents numerous complications for an Operator/Provider attempting to meet their legal obligations.

### ***Australian Standards and the Disability (Access to Premises — Buildings) Standards***

The Australian Standards underpinning many of the Transport Standards requirements were not written specifically for transport or rail environments. However, their detailed and precise requirements often require legal interpretation as well as adaptation to the particular rail environment and leave the Operator/Provider uncertain as to their actual compliance.

In addition, by imbedding earlier editions of Australian Standards in the Transport Standards, it discourages Transport Operators/Providers from using updated Australian Standards which provide better outcomes for people with disabilities. More recent Australian Standards reflect improved application and understanding of the needs of people with disabilities, yet the Transport Standards do not actively encourage their use.

The introduction of the Premises Standard allowed the use of the latest Australian Standards and encourages innovative access solutions to meet the required performance outcomes for certain building types but not public transport buildings. As the relevant requirements for public transport buildings have now been transferred into the Premises Standards, there was opportunity to set out performance requirements for transport buildings and apply similar changes to the Transport Standards. These changes would have provided greater uniformity to requirements, solutions and outcomes for the provision of non-discriminatory access in line with other building types. Unfortunately, there is a disjoint between access requirements for transport



buildings vs. non-transport buildings which leads to confusion amongst architects, designers, engineers and certifiers.

### **Recommendation 1**

The Transport Standards should acknowledge the latest Australian Standards and encourage Operators/ Providers to use where practicable. Additionally, Queensland Rail would embrace the opportunity to assist the development of performance based outcomes or amendments to the current Transport Standards to accommodate changes in design standards.

Note: Queensland Rail would also support the inclusion of similar performance based outcomes and references to the latest Australian Standards in Part H of the Building Code of Australia/Premises Standard.

### ***Unjustifiable Hardship***

Compliance with the Transport Standards is not required to the extent that compliance would cause “unjustifiable hardship” to the transport Operator/Provider. While this defence mechanism was provided for exceptional cases and sets out a number of factors to be taken into consideration, no operator/provider is able to decide with any certainty that a defence of “unjustifiable hardship” would succeed in the event of a discrimination complaint. This uncertainty may have unintended consequences for people with disabilities. An Operator/Provider may decide to close down or reduce a service rather than risk a successful discrimination complaint.

If an on board accessible toilet is not able to meet the exact requirements of the Transport Standards, a transport operator/provider may consider it better not to provide a toilet on a particular service. Alternatively, an operator/provider may expend far more on one aspect of the Transport Standards in an effort to meet compliance and therefore not spend the money more widely and wisely on providing more accessible services.

### ***Exemptions***

Under the DDA, Operators and Providers may apply to the Australian Human Right Commission for an exemption against certain elements of the Transport Standards. Granted exemptions offer temporary protection from a discrimination complaint for a period of up to 5 years with the intent that the element will be brought into compliance during this period. However, an issue arises when the element cannot be brought into compliance. As a temporary protection, the only option available under the legislation is to submit a subsequent exemption on the same matter. Whilst the Transport Standards offer the provision for unjustifiable hardship, there needs to be a greater degree of certainty associated with this process.

### **Recommendation 2**

Amend the Transport Standards to include a well-articulated, proactive process for Operators/Providers for guiding performance based outcomes. Provision of clear processes and guidance will assist the development of a consistent national approach that considers both rail environment constraints and customer requirements.



## **Rail Environment Challenges**

The Queensland Rail built environment poses a number of unique challenges in addressing the Transport Standards requirements. Many of these challenges stem from the fact that large portions of the rail network were constructed over 50 years ago and in some cases up to a century ago. During the time of construction, design specifications differed greatly from today's specifications and generally gave no consideration of accessibility for people with disabilities.

Track layouts and rail corridors were generally narrow and followed existing roads resulting in a number of curved sections. Platforms and stations were constructed to meet the requirements of older steam-hauled carriages, not the current electric multiple units in use since 1979. Stations were often built in cuttings where platforms were built low, curved and narrowed significantly towards either end. Obstacles along the platforms were common, and the use of steps and subways to access station buildings and other facilities were commonplace.

Queensland Rail operates 145 stations in South East Queensland metropolitan area and over time both commercial and residential properties have been built alongside the rail corridor. Road widening and other development activities have significantly constrained the railway corridor in many locations.

Building a modern accessible railway station requires a considerable amount of space both on the platform and concourse to house all of the necessary elements. Building accessible stations within the older parts of the rail network poses substantial design challenges which add significantly to the overall cost of construction. In many cases, the design may need to include alternative access solutions to fit within the physical constraints of the location.

### ***Train and Platform Interface***

The interface between train and platform poses significant problems with respect to providing many people with disabilities independent access to Queensland Rail services. From a rail operations perspective, a greater gap between train and platform prevents potentially dangerous incidents occurring from track movement, not only from passenger trains, but also heavy freight and coal trains. This danger is exacerbated on curved platforms.

On the other hand, the wider the gap between trains and platforms, the higher the risk customers could trip or fall while boarding and alighting from trains. In addition, it decreases the number of people with disabilities who can independently board and alight safely. These divergent interests have resulted in increased design and construction costs in a bid to strike the safest and most accessible balance for train-platform separation. While Queensland Rail has been able to reduce the gap between platform and train in many instances through extensive research costs and engineering, there may always be a need to provide assistance and boarding ramps for many people with disabilities.

### **Recommendation 3**

The relevant sections of the Transport Standards for boarding, vertical and horizontal gaps are updated to reflect the physical constraints of an existing rail environment and, in particular, curved platforms. One option is to facilitate boarding at a designated location on a platform.

### ***Narrow Gauge Track***

Queensland railways have been constructed using narrow gauge (1067mm) track built in the early part of last century. Narrow gauge track imposes limitations to train carriage width and presents engineering constraints limiting the ability to design a carriage that meets the needs of all users, including people with disabilities. For example, if a toilet facility and an access aisle are required to be adjacent to each other, construction to the dimensions specified in the Transport Standards is physically impossible. Accessibility in this instance can only be achieved through consultation and agreement. Challenges presented by Queensland Rail's narrow track gauge will continue to impact accessibility on trains as widening track gauge requires relaying the entire network's track.

### **Recommendation 4**

The Transport Standards are updated to identify performance based outcomes and guidance for alternative access solutions which take into account the physical constraints of a narrow gauge railway.

### **Compliance Reporting Challenges**

Whilst the Transport Standards are clear regarding the design and specification requirements to meet compliance, they provide little guidance for determining a transport operator's level of compliance.

Through collaboration with other public transport Operators/Providers and independent research, it is apparent that there is no commonly accepted method for measuring compliance. Operators/Providers often report their compliance as a single percentage which is inaccurate given the Transport Standard's distinction between those access elements which require full compliance and those which require a general level e.g. 55% in 2012. As compliance with the Transport Standards provides a defence against a discrimination complaint, further guidance for determining and measuring compliance is necessary for Operators/Providers to effectively manage and report upon their obligations.

Another critical challenge with confirming compliance is the lack of certainty afforded by the Transport Standards. The fundamental ambiguity that exists within Transport Standards is the legislation's reference to "as far as possible". Whilst this phrase attempts to accommodate flexibility for the differences between public transport operations, it also creates ambiguity for determining compliance when an Operator/Provider is unable to meet the strict compliance specifications.

Alternate access solutions accepted through community consultation do not reduce the uncertainty for Operators/Providers. If consultation has deemed the suggested solution acceptable and facilitated access on public transport, these solutions cannot be deemed compliant and may still be the subject of a successful discrimination complaint. Solutions determined through consultation are further complicated in some instances by competing interests for people with sensory disabilities versus those with physical disabilities. Clarity and further guidance on such issues would allow Operators and Providers to better manage their obligations under the Transport Standards.



### **Recommendation 5**

Further guidance for determining and measuring compliance is necessary for Operators/Providers to effectively manage and report upon their obligations.

### **Compliance vs. Outcomes for Customers**

Customers remain the focus of Queensland Rail's business. An important part of this focus is Queensland Rail's ongoing commitment to community engagement. Through consultation and collaboration with the community including people with disabilities and their representative groups, Queensland Rail is able to identify customer preferences and subsequently deliver practicable outcomes for customers.

In various circumstances, Queensland Rail's organisational commitment to deliver services that are responsive to community expectations can be negatively impacted by its legal obligations under Transport Standards. An example of this limitation occurs in relation to Queensland Rail's traditional train fleet. Aged over 50 years, these trains offer limited accessibility and are generally reliant on consultation with the disability sector throughout the design process and ultimately, direct assistance to provide access on services. The costs to upgrade these trains to strict compliance are comparable to the costs to replace the trains entirely. Within a limited budget, the dilemma becomes whether it is better to cancel these services entirely to avoid non-compliance with the Transport Standards or to continue running these services and implement practicable upgrades based on consultation, alternative solutions and performance outcomes. This dilemma also applies to costly upgrades to less patronised stations where a lack of flexibility in the Transport Standards could result in a loss of services.

Given the increasing demands of population growth, particularly in South East Queensland, Queensland Rail has listened to its customers and continues to service the community whilst improving accessibility with available funding.

### **Financial Challenges**

Compliance with the Transport Standards imposes significant financial obligations upon public transport Operators/Providers. For a widely-dispersed, infrastructure heavy business such as a Queensland Rail, compliance with the Transport Standards requires an investment of billions of dollars. Compressed into an investment timeframe of 20 years, there are a number of practical and financial complications presented by the Transport Standards.

As a statutory authority owned and funded by a State Government focused on stabilising the state economy through reducing debt and spending, efficient capital use is a matter of increasing importance. In addition to the heavy investment requirement, the financial challenges of the Transport Standards relate to infrastructure lifecycle and the substantial upgrade.

### ***Infrastructure Lifecycle***

As a rail operator, the life of infrastructure used to supply train services may exceed 50 years. As such, under the legislated target dates, infrastructure may be required to be upgraded prematurely. Alignment with the State Government's direction is essential and the practicality of

upgrading “young” infrastructure may be questionable. While it is critical that the Transport Standards maintains an impetus for ensuring accessible transport services, alternative mechanisms should be explored. An example of alternative means of enforcement could include agreed annual investment requirements for Operators/Providers.

### ***Substantial Upgrades***

Another financial impracticality of the Transport Standards is the application of the “substantial upgrade” principle. While guidelines provide some insight into the definition of what constitutes “substantial,” from an Operator/Provider standpoint, the “all or nothing” implication of this clause may deter progress due to financial constraints.

### **Recommendation 6**

The development of consistent, national interpretations of requirements in relation to specific situations, constraints and customer priorities is required. Queensland Rail would encourage collaborative work with the Australian Human Rights Commission, other public transport Operators/Providers and customers with disabilities to establish achievable and agreed alternative solutions given design, service life and funding requirements.

## **Additional Initiatives and Consultation**

Queensland Rail has focused on community engagement with key disability groups and the wider community to work through the complexities of implementing the Transport Standards within the rail environment and create a more positive rail experience for our customers.

The Transport Standards actively encourage consultation between Operators/Providers and the community to ensure that accessible public transport initiatives reflect local and regional needs. Queensland Rail has developed and maintained strong working relationships with disability sector organisations and people with disabilities. A program of ongoing consultations and regular meetings ensure an open and collaborative approach to removing access barriers and negotiating challenges with Transport Standards requirements.

Through these mechanisms, Queensland Rail obtains endorsement of alternative access provisions which meet customer requirements and provide access outcomes consistent with local community needs. Such solutions rely on the Transport Standards direction to consult. However, these solutions may not be interpreted as ‘compliant’ and it is unclear if such solutions provide any certainty for operators.

A summary of how Queensland Rail's community engagement has improved accessibility for our customers:

- Holding quarterly Rail Safety Orientation Days which provide training and assistance for persons with physical or sensory disabilities to familiarise themselves with trains and entry/exit onto platforms, through a safe and controlled environment (stationary train, closed off station/platform);
- Production of a Station Access Guide that provides journey planning information and station facilities in the City Network for persons with an accessibility requirement;
- Implementation of a SMS service to fill the gap in the communication with persons who are hearing impaired;



- Installation of Braille maps to provide orientation for persons who are vision impaired (in conjunction with tactiles);
- On train announcements in relation to direction of travel (of particular assistance for customers who have a vision impairment);
- Use of accessible ramp for any customer who requests assistance to board or disembark trains; and
- Fact sheets for long distance travel which provides information on staff assistance, accessibility requirements and frequently asked questions.

In addition to the initiatives developed through consultation, Queensland Rail's customer service journey has benefitted people with disabilities. Through the development of a Customer Charter to measure and continuously improve upon Queensland Rail customers' most important needs, customers have benefitted from a superior and more consistent experience for all customers. Whilst not specifically targeted for people with disabilities, these efforts and initiatives benefit all customers both directly and indirectly. As a part of this journey, Queensland Rail has provided customer service training to the majority of its workforce to ensure the customer remains the focus of the business and employed additional mobile customer service staff to ensure a superior experience for customers. Queensland Rail also implemented a certified complaints management system to efficiently identify and resolve customer issues. The success of Queensland Rail's customer service journey has been epitomised by the awarding of numerous customer service awards by the Customer Service Institute of Australia.