

**2012 Review of the *Disability
Standards for Accessible Public
Transport 2002* (Transport
Standards)**

**Submission of the
Anti-Discrimination Commissioner
of Tasmania**

June 2013

Office of the Anti-Discrimination Commissioner
Celebrating Difference, Embracing Equality

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A. Introduction

Thank you for the opportunity to make a submission to the 2012 review of the *Disability Standards for Accessible Public Transport 2002* (the Transport Standards).

The provision of adequate, affordable and accessible public transport underpins social inclusion in Australia. It is how many people get to work, visit friends, get to and from sporting, cultural, theatre or arts events, get to meetings, go on holidays, go shopping and keep up their contact with community, friends and family.

Importantly it provides mobility for people who often have the fewest transport options.

People with disability and older people are more likely than others to rely on public transport to go about their business and sustain their relationships because many either cannot drive, cannot afford a private car that meets their needs or cannot afford the costs of upkeep of a car.

In Tasmania, the situation facing people with disability in seeking to travel independently within urban areas and between communities is also affected by the lack of alternative modes of transport. Motorised urban travel is restricted to private vehicles, public buses or taxis (and in Hobart, a limited number of ferries). Unlike many other parts of Australia, there are no urban or inter-community trains, no trams and no light rail.

Additionally, a high percentage of the population live outside major urban centres and Tasmania's relatively small population increases the need for people to travel between urban centres or to urban centres to access key services and participate in work and community activities. The strong focus in Tasmania on three regional centres and the common practice of holding events and meetings outside the capital city of Hobart adds to the complexity of the situation.

At the interstate transport level, Tasmanians are more reliant on airline travel than residents of any other state or territory as there is no land transport option to travel interstate and the Bass Strait Ferry service does not provide a real land-transport equivalent. As a result, barriers to access in airline travel have a particularly disadvantageous effect for Tasmanians with disability.

Another relevant factor is that Tasmania has the highest reported percentage of people with disability of any state or territory in Australia.¹

¹ The disability rate recorded in the National Census of 2009 indicates that Tasmania has a rate of 22.7% compared to the national average of 18.5%. The next highest rate is 20.9% in South Australia. Source: Australian Bureau of Statistics, *4446DO001 2009 Disability, Australia, 2009* (2011), available at <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/4446.02009?OpenDocument>>.

All this means that without the provision of accessible public transport across all modes, people with disability face particular challenges in travelling independently and participating fully in the work, cultural and social life of their communities. It also means that the Tasmanian Government faces particular challenges in ensuring equitable access to effective public transport options for all people with disability. With a small population, viability is a particular pressure point for small public transport operators such as taxi operators and drivers.

Since the introduction of the federal *Disability Discrimination Act 1992* (Cth) (the DDA) and the Tasmanian *Anti-Discrimination Act 1998* (Tas) (the Tasmanian Act) it has been unlawful for public transport service providers to discriminate against people with disability by failing to make their services accessible.

The Transport Standards set out arrangements for public transport services to move toward all their services (and all aspects of their services) being fully accessible for people with disability. This applies to government-run and privately operated public transport services.

The end of 2012 marked the halfway point in the implementation of the Transport Standards compliance timetables² (except for specific standards in relation to trams and trains); a point at which it could be expected that people with disability would see significant progress toward accessible services.

Unfortunately in some respects this remains far from reality in Tasmania and there is a long way to go to ensure that the Transport Standards are fully implemented in compliance with the timetables set out in Part 33.

This is the second review of the Transport Standards and I am particularly disappointed by the lack of action to address the recommendations arising from the 2007 review and the relative priority these matters have been accorded within the national transport reform agenda. Implementation of the Transport Standards is pivotal to achieving the actions agreed by the Council of Australian Governments in the *National Disability Strategy 2010–2020*, particularly in relation to increasing participation in employment and promoting social inclusion in all areas of community life.³ Effective implementation of the Transport Standards is also critical to fulfilling Australia's obligations under the United Nations *Convention on the Rights of Persons with Disabilities* (CPRD) ratified by the Australian Government in July 2008.⁴ Failure to address the recommendations from the 2007 review is impeding progress in other areas of public policy and must be accorded a higher priority within the transport reform agenda.

² *Disability Standards for Accessible Public Transport 2002* (Cth) Part 33.

³ Council of Australian Governments, *National Disability Strategy 2010–2020* (Commonwealth of Australia, 2011).

⁴ UN General Assembly, *Convention on the Rights of Persons with Disabilities*, opened for signature 30 March 2007, ATS 12 (entered into force 3 May 2008, ratified by Australia 17 July 2008, entered into force for Australia 16 August 2008).

This submission is set out in three parts. The first provides comment on progress across the main transport services in this State. The views expressed in this submission are informed by the nature of complaints I have received about access to transport, efforts undertaken to progress implementation of the standards in the taxi industry, and feedback I have received on public transport matters from a range of stakeholders within the community.

The second part of this submission provides a summary of feedback received: from two public forums held in southern and northern Tasmania in March 2013; from people unable to attend those forums and additional feedback following the forums.

My aim, in holding the forums, was to enable people with disability, older Tasmanians and their advocates to share their experiences in accessing public transport and feed into the review. Participants in the forums were provided with information about the Transport Standards and the current review; given an opportunity to talk about their experiences in using, or trying to use, public transport; invited to share ideas about future improvements; and encouraged to make submissions to the review. They were attended by approximately 70 people, with the vast majority of participants being people with disability, each with their own unique experience of accessing public transport in this State. They included people with mobility, sensory and cognitive disability. Older Tasmanians also participated. Many of the people with disability who participated were younger people who are heavily reliant on public transport for attendance at education and training and to socialise with friends.

The third part sets out de-identified information about a number of complaints and enquiries I have received in respect of matters relevant to the review. These too provide information on the obstacles facing people with disability in relation to the provision of transport services.

I welcome the opportunity to expand on this submission at the public hearings to be held later in 2013.

B. Taxis

The provision of accessible taxi services is of critical importance to people with disability, particularly people with physical disability who use wheelchairs that cannot be safely transported in a conventional taxi vehicle.

This is especially the case where people are unable to access other forms of public transport, for example, outside of major metropolitan centres and where there are no or very limited bus services.

At the end of 2010, in conjunction with the taxi industry, I convened a Taxi Access Working Group to identify issues related to taxi use by people with disability and propose improvements to ensure improved access and amenity. Participants in the group included the Commissioner of Transport, representatives from the taxi industry, people with disability and representatives from key disability organisations in Tasmania. The Working Group has examined a number of issues related to service provision in the taxi industry, including accessibility, fares, driver training and compliance improvement.

This Working Group came about as a direct result of a complaint under the Tasmanian Act alleging that a taxi driver had refused to pick up a passenger who was accompanied by a guide dog.

Response times

A number of representations have been made to me about the availability of wheelchair accessible taxis (WAT). The Transport Standards require that radio network and taxi co-operatives achieve the same response time for a booked WAT as for other taxis.⁵

Relevant to this standard is the fact that taxis in Tasmania are not required to be attached to a radio network and may not be part of a taxi co-operatives. It appears, in that circumstance, that the standards have nothing to say about equivalent service response times.

Further, to the extent that taxis are operating through a radio network or within a co-operative, the lack of reported compliance data in relation to this standard means that precise assessment of compliance with this standard is not possible. Nevertheless, people with disability have provided information that suggests the standard has not been met.

Those requiring the services of a WAT indicate that there is effectively always a need to pre-book and, even when this is done, operators may be unable to make a

⁵ *Disability Standards for Accessible Public Transport 2002* (Cth) Sch 1, cl 1.3.

WAT available at the required time. This suggests that the number and/or availability of WATs in Tasmania is insufficient to cater for demand.

In 2011, I was advised by the Commissioner for Transport that 61 WAT licences were on issue in Tasmania, distributed as set out in the following table.

Table 1: WAT licenses on issue in Tasmania (2011)

Taxi Area	WAT licences on issue	Total Taxi Licences on issue	Percentage of fleet (%)
Hobart	42	306	13.7
Launceston	16	118	13.6
Devonport	1	24	4.2
Burnie/Wynyard	1	23	4.3
West Coast	0	10	0
New Norfolk	0	9	0
Perth	0	10	0
Ulverstone	0	7	0
Circular Head	0	5	0
George Town	0	5	0
Huon Valley	1	7	14.3
Dorset	0	3	0
Break O'Day	0	3	0
Glamorgan-Spring Bay South	0	3	0
Tasman	0	3	0
Penguin	0	2	0
Meander Valley	0	2	0
West Tamar	0	2	0
Glamorgan-Spring Bay North	0	2	0
King Island	0	2	0
Bruny Island	0	2	0
Flinders Island	0	2	0
Central Highlands	0	1	0
Kentish	0	0	N/a
TOTAL	61	551	11.0

The above table indicates there are many areas in the State where no WAT services are available, despite efforts by the Tasmanian Commissioner for Transport to encourage the take-up of WAT licences by making them freely available. This lack of WATs remains a particular problem for people with disability living in outlying areas. It has been the subject of media coverage from time to time in the last few years, including in May 2013.⁶

The provision of free WAT licences does not, in and of itself, provide an incentive that is directly linked to increased transport provision for wheelchair users.⁷ Up

⁶ The Advocate only, *Left without a taxi ride* (21 May 2013) <<http://www.theadvocate.com.au/story/1515015/left-without-a-taxi-ride/>>.

⁷ In Tasmania, there is an incentive to WAT drivers to pick up passengers reliant on WATs in the form of higher tariffs. The additional journey cost is currently offset for the passenger (up to a capped amount) for passengers who are members of the Transport Assistance Scheme. For more about this scheme and current work being undertaken to consider how to eliminate the potentially discriminatory effect of the higher tariffs for longer journeys, see Department of Infrastructure, Energy and Resources, *Wheelchair Accessible Taxis: Review of Wheelchair Accessible Taxi (WAT) Fares and Subsidies*, <http://www.transport.tas.gov.au/miscellaneous/wheelchair_accessible_taxis>. There is also a trip subsidy paid to the operator of a WAT service for every trip involving carriage of a wheelchair user.

to a point, the fact that there are more WATs on the road does not necessarily equate to more availability for wheelchair users if there are other customers that drivers consider equally or more commercially attractive.

WATs are not restricted to providing services to customers with disability. WATs are taxis and they are permitted to provide taxi services to any passengers who wish to hire them. WATs can provide a wider range of services than standard taxis as they can transport larger groups of people and passengers with luggage that cannot safely be transported in a standard taxi. This can mean that there are particular routes, for example, airport transfers, that are equally if not more attractive to WAT drivers than bookings for passengers requiring a wheelchair accessible taxi.

In response to the Department of Infrastructure, Energy and Resources' review of the WAT tariff arrangements, I recommended that consideration be given to introducing for WAT licence holders a requirement to meet a minimum a specified service level of trips for wheelchair users.⁸ This could go some way to assisting in the achievement of compliance with the Transport Standards in respect of performance.

An alternative was a requirement that drivers give priority to bookings for wheelchair users, as is currently the case in NSW.

The need for WATs arises because conventional taxis are not wheelchair accessible. The need to specify equivalent response times for WATs results from this being the mechanism for responding to the needs of people who rely on wheelchairs for independent mobility. An alternative approach to having specialised WAT services would be to encourage or require all taxis to meet universal design criteria, to be implemented when vehicles are replaced, thereby eliminating the need for specialised WATs.

Measuring performance

The taxi industry in Tasmania is very complex, involving multiple entity types including vehicle owners, accredited operators, licensed drivers, networks and licence plate owners. The inter-relationships between these entities are complex and not consistent and impact significantly on the ability to monitor compliance with the Transport Standards and even on understanding which entities have what obligations. It also gives rise to the situation where there are gaps in regulation meaning that there is no clear responsibility for particular matters.

The lack of a single radio network to manage taxi bookings means the obligation to meet equivalent response times is fragmented: where an operator does not work through a radio room or is not part of a co-operative there is no basis to make the comparison and there is arguably no clear obligation on such operators.

⁸ Office of the Anti-Discrimination Commissioner, *Wheelchair Accessible Taxis: Review of Fares and Subsidies: Submission of the Office of the Anti-Discrimination Commissioner* (2012) [8] available through link at <http://www.transport.tas.gov.au/miscellaneous/wheelchair_accessible_taxis>.

Unlike NSW, for example, where there is a single booking service specifically for WAT vehicles, in Tasmania access to WAT services varies according to whether they are attached to a larger fleet or are owned or operated independently. The capacity to make meaningful comparisons is therefore limited.

The lack of standardised measures of response times leads, in part, to a reliance on complaints to gauge the extent to which the Transport Standards are being met. For taxis, as for other transport modes, the reliance on complaint data is not necessarily a good indicator of compliance, as it relies on knowledge of and capacity and willingness to go through formal complaints processes. It is also affected, rightly or wrongly, by genuine fears by people with disability that services will be withdrawn or withheld from them if they complain. Further, the lack of data across the fleet makes the assessment of comparable response times difficult.

This is a matter that was addressed as part of the 2007 Review of the Disability Standards for Accessible Public Transport. Recommendation 11 of the 2007 review made reference to the development of a staged implementation timeframe and appropriate performance measures to replace the 2007 milestone for WAT compliance.

I understand that the Accessible Public Transport Jurisdictional Committee (APTJC) and National Taxi Regulator Group have been discussing this matter. However, practical difficulties and complexity about, for example, the basis for performance comparison under the Transport Standards that must be resolved in order to move to a single national response time-based measure have led to a stalemate. This stalemate needs to be resolved as a matter of urgency and, if it is not possible to do so (as I suspect is the case given the different arrangements throughout Australia), a new timetable and measure for compliance in respect of WATs need to be developed.

Technical specifications

The Transport Standards set out various technical specifications for taxis to ensure access. These include the technical requirements for WATs in terms of the allocated space available for the carriage of a person in a wheelchair⁹; and the provision of tactile taxi registration numbers.¹⁰

Allocated space

There are many factors that impact on the ability of a person with disability to access taxis. Of particular significance is the design of the WAT and its capacity to provide enough room for passengers to sit safely in the space provided and the standard of service provided by taxi operators.

⁹ *Disability Standards for Accessible Public Transport 2002* (Cth) Part 9, cl 9.1, 9.2 and 9.3, and Part 12, cl 12.5.

¹⁰ *Disability Standards for Accessible Public Transport 2002* (Cth) Part 17, cl 17.7 and 17.6.

The Transport Standards provide that the allocated space within all new WATs is to be a clear floor space of 800mm x 1300mm with an unobstructed doorway height and minimum head room of 1500mm as of 1 January 2013 to ensure that most people can fit safely within the space.¹¹ My awareness of problems with interpretation of this aspect of the Transport Standards in NSW led me to seek clarification of the interpretation used in Tasmania from the Commissioner of Transport. I have been advised of how the requirement is described in the manual given to approved inspection stations and am of the view that the manual provides the correct interpretation of this specification and, moreover, that this is reflected in training provided to inspectors.

I have also been advised that the transport regulator has on one occasion rejected a proposed make of WAT vehicle specifically on the grounds that its internal dimensions did not comply with the minimum standard.

I am satisfied that this approach should be effective in ensuring that the relevant standards are properly applied to the dimensions of WAT vehicles in Tasmania.

I am conscious that these particular aspects of the Transport Standards were developed prior to the availability of many current motorised mobility aids. As a consequence, concerns have emerged about the capacity of some WATs to transport some of the larger, heavier devices. I believe that this issue requires a nationally consistent approach, both to ensure that the correct information is available at the point of sale of mobility aids, including certification standards, and to the development of national specifications for the WAT vehicle modification industry to ensure that a consistent approach is being applied.

Concerns about the implementation of space requirements raise the broader issue of interpretation more broadly. This is considered below in Section E. Interpretation, implementation and compliance.

Tactile taxi registration numbers

The Transport Standards require that by 2012 all taxis—conventional and wheelchair accessible—are to have a tactile taxi registration number on the exterior of the passenger doors to enable those who have vision impairments to identify the taxi.¹²

Information provided to me suggests that this standard has not been universally achieved on taxis in Tasmania.

In addition, where identification tags are used, I am advised they are generally provided in braille. People with vision impairments in Tasmania (or indeed in Australia more broadly) do not all read braille. As a result there are situations where the registration number is not readable by people with impaired vision.

¹¹ This was previously a clear floor space of 800mm x 1300 mm with a minimum head room and unobstructed doorway height of 1400mm.

¹² *Disability Standards for Accessible Public Transport 2002* (Cth) Part 17, cl 17.7.

The Transport Standards refer to 'raised' taxi registration numbers as the preferred form of tactile signage. This is another situation where the lack of clarity in the requirements of the Transport Standards may have resulted in confusion by operators as to what is required and lack of knowledge of disability has resulted in incorrect assumptions about the prevalence of use of braille. Guidance may be required to ensure that tactile signs include both raised lettering and raised braille characters to ensure that it is accessible to the broadest possible range of passengers with vision impairments.

Wheelchair restraints

Several individuals have also raised with me their concern with failures by drivers to adequately restrain wheelchairs during travel. This includes the incorrect use of restraints as well as failure to use them.

The safety of people using wheelchairs while travelling in vehicles requires that the wheelchair be secured within the transporting vehicle and for the occupant of the wheelchair to be protected with appropriate seatbelts. Guidance is provided in Australian Standard AS 2942. Provided that suitable restraints are fitted and used correctly the occupant is given a high level of protection if involved in an accident whilst being restrained in the vehicle. The fact that restraints are not being used or are not being used correctly indicates that a higher level of understanding of the requirements (and perhaps the rationale) is required, including improved training for drivers required to use them.

Driver training

Since the inception of the WAT scheme in Tasmania, all WAT drivers have been required to undertake training to ensure they can provide a safe and effective service for passengers with disability.

In August 2006, the Tasmanian Government increased the scope of training by implementing a new training program for the carriage of passengers with disability. This training course not only replaces the previous WAT course, but also is a prerequisite for all new taxi drivers, irrespective of whether they intend to drive WAT vehicles or standard taxis. This is appropriate given the fact that people have a range of different disabilities and only those who are unable to safely transfer out of a wheelchair into a conventional vehicle are reliant on WATs.

Whilst I am supportive of the driver training provided to new taxi drivers, I remain concerned about the level of awareness of disability among those drivers who drive conventional vehicles rather than WATs, particularly in relation to understanding their obligations around carriage of and the needs of people with assistance animals, people with vision impairments more broadly, people who use manual wheelchairs and walkers, and people with communication difficulties, including people with hearing loss and people with disabilities that affect their speech and motor control.

Despite the fact that it is an offence under Tasmanian regulations to refuse to carry an assistance animal travelling with passengers and a breach of both State and federal discrimination laws, I continue to receive reports of refusals and drivers leaving the taxi rank or by-passing a fare when a person with an assistance dog approaches. I have received formal complaints under the Tasmanian Act of such refusals in terms of both a kerbside hail and a booked service. Unfortunately, it appears that in at least one of these complaints the driver had only recently completed their qualification and so should have been well aware of the obligation.

Similarly, people reliant on manual wheelchairs or walkers who are able to transfer into a conventional vehicle have reported a lack of assistance and, in some cases, refusal to accept the fare, with the driver arguing that the person had to use a WAT.

Guidelines accompanying the Transport Standards make clear that ensuring vehicles, premises or infrastructure are accessible is only a means to facilitate the provision of non-discriminatory services and the use of a 'standard' conveyance does not relieve operators of the obligations to comply with the Transport Standards for the conduct of their services.¹³ Further, it needs to be understood that operators have an obligation to ensure that appropriate adjustments are made to existing methods of service delivery where required. This includes ensuring that drivers understand how to respond to the diverse needs of passengers with disability.

Standard 33.6 of the Transport Standards provides that if the standards are not fully met, direct assistance to passengers may be a means of providing equivalent access to a service. This standard also requires the provision of direct assistance if such assistance is necessary in order to provide equivalent access to a service and such assistance can be provided without unjustifiable hardship.¹⁴ Such direct assistance could include, for example, assistance with transferring luggage into and out of the vehicle and to a point where the person can obtain other assistance.

I am of the view that the Transport Standards could usefully provide more explicit guidance in this area and that any gaps in coverage in relation to service obligations be clearly identified and monitored.

Complaints mechanisms

Through the Taxi Access Working Group and other forums, discussions have been held in Tasmania about whether or not the means of complaining about taxi services are sufficient and appropriate. I believe that this highlights a

¹³ *Disability Standards for Accessible Public Transport Guidelines 2002* (Cth) cl 1.13(4).

¹⁴ I note that this standard, at 33.6(3)(b) reads 'direct access can reasonably be provided without unjustifiable hardship'. The words 'direct access' does not make sense in the context of the particular standard and consideration should be given to whether or not this was intended to read 'direct assistance can reasonably be provided without unjustifiable hardship'.

number of broader problems with the way in which implementation of the Transport Standards are currently approached.

Where a person believes there has been discrimination in relation to taxi services, they can make a formal legal complaint under the Tasmanian Act or under the DDA. While such a complaint could result in an individual taxi company, driver or operator changing their approach, it is limited in its capacity to drive systemic change and ensure that the industry as a whole is compliant with the Transport Standards.

I have been advised that responsible operators of taxis in Tasmania are required to have a mechanism for customers to complain and keep a log of complaints received.¹⁵ This is subject to both periodic and random audit.

This requirement has been the subject of discussions at the Taxi Access Working Group with concerns identified that where a responsible operator is a sole operator, the customer is likely to be making a complaint to the person about whom the complaint is being made. This is not, in my view, an effective mechanism.

At this stage, responsible operators are not actively required to report to the transport regulator on the mechanism they have in place or provide details or data on complaints received and dealt with. Rather this information is obtained through the audit process. Such reporting and the analysis of data reported could provide a basis for understanding the extent to which there are systemic problems that are affecting people with disability.

A limited range of complaints can also be made to the transport regulator: the Department of Infrastructure, Energy and Resources (DIER) in Tasmania. The relevant page of the DIER website states¹⁶:

If I have a complaint, who do I contact?

All taxis and luxury hire cars must display a phone number that passengers can call if they have a complaint about the vehicle or the driver. This is the number to call in the first instance, unless the complaint refers to a criminal matter, in which case you should contact Tasmania Police immediately.

If the taxi is part of a dispatch service or taxi network, the contact number may be the number of the dispatch service. In other cases the number will be the operator's number.

The operator must investigate any complaints and must inform the person that made the complaint of any action they have taken.

In some cases you might not be satisfied with what the operator has done. If your complaint relates to customer service issues (e.g. a driver being rude, being late, not arriving or not helping with your luggage), you might choose not to use that taxi company again, or you could raise the matter again with the operator.

¹⁵ This is a mandatory requirement of the prescribed Operator Accreditation System.

¹⁶ Department of Infrastructure, Energy and Resources, *Taxis and luxury hire cars* (2011) <<http://www.transport.tas.gov.au/miscellaneous/understanding taxis and luxury hire cars>>.

If your complaint is about a matter that is covered by regulations, such as:

- overcharging;
- taking the incorrect route;
- being refused a hiring from a taxi rank;
- being refused a hiring because you are in a wheelchair;
- being told your Guide Dog or other assistance animal cannot travel in a taxi;
- being told you must take the first taxi on the rank, or that you must not use a WAT unless you are travelling in a wheelchair; or
- serious inappropriate behaviour, such as harassment,

you can contact the Department of Infrastructure, Energy and Resources on 6233 5376 or by email dier@dier.tas.gov.au for further advice.

This number is not a general enquiry number. The Department has no authority to investigate customer service issues, and will not deal with complaints about these matters.

The Department also does not appear to collect data on the nature of complaints to identify trends that may relate to people with disability nor does it have a mechanism to inform the service provider (owner or licensee) or my office where a complaint of discriminatory treatment has been made. Nor do I have the authority to inform DIER of the details of any complaint dealt with under the *Anti-Discrimination Act 1998* (Tas).

I suspect that this situation is mirrored in other Australian jurisdictions.

As a consequence there is little capacity for broader industry-wide understanding of areas of concern or any capacity for the lessons arising from complaints to feed into industry-wide change.

Further, there is a need to clarify how responsibility for compliance applies to radio networks and co-operatives. As I have indicated earlier, many owner/operators operating taxi services do not belong to a radio network or co-operative, but nonetheless are loosely associated with a taxi network. This means that in some areas there is a gap in the way in which compliance obligations are likely to apply and can be monitored.

I have been informed that in some instances radio networks impose penalties for inappropriate driver conduct, including potentially discriminatory conduct, by excluding the driver from access to the radio network for a stipulated period, such as 24 hours. While I understand this approach has a very real potential to negatively affect a driver's income, it does not prevent an independent owner-operator from continuing to pick up fares on ranks or from being hailed on the street. In these circumstances there is little that the radio or network operators can do to enforce compliance with rules, including the Transport Standards.

In my view, more needs to be done to ensure that there is a link between non-compliance with the Transport Standards and the licensing of drivers and operators. Failure to comply with the Transport Standards and failure to

provide non-discriminatory taxi services should be capable of resulting in a loss or suspension of license (whether as a driver, operator, etc).

Impact of community transport

An issue that has been discussed in the working group is the actual or perceived impact of the growth of community transport on business demand for WATs, in particular in regional areas. At the same time, concerns have been raised about the lack of standards and/or regulation of community transport compared to that which applies to taxis (both WATs and conventional vehicles).

Community transport is discussed in further detail in a separate part below.

C. Buses and coaches

Bus and coach services are a significant component of public transport provision in Tasmania. This is due, in large part, to the lack of rail-based services, such as trains, trams and light rail.

Buses are the main form of metropolitan public transport (including for school students), while coaches are probably the main inter-urban and regional public transport mode.

The Transport Commission has Urban Service Contracts with three operators: Metro Tasmania (Hobart, Launceston and Burnie), Phoenix Coaches (operating as Merseylink in Devonport) and Manion's Coaches (Legana).

The Transport Standards set out requirements for the vehicle (the bus or coach itself), the infrastructure that supports the transport service (bus stops, waiting areas, etc) and for the customer services that are an essential element of bus and coach travel (including bookings, information, fare payment and luggage handling).

The Transport Standards include the compliance timetables in Part 33 that specify the percentage of different aspects of the services that are required to be achieved by operators and providers by the specified dates.¹⁷

In addition, to the compliance timetables, the Transport Standards clearly require all new conveyances, premises and infrastructure brought into public transport service use after the Transport Standards came into effect to fully comply with relevant standards.¹⁸ The compliance timetables rely, in relation to a range of obligations, on the concept of 'type of service'. This is the case, for example, for the compliance requirement for boarding for 'each type of service' in respect of conveyances, premises and infrastructure other than bus stops set out in Schedule 1, clause 1.4. This clause makes operators and providers responsible for achieving '[c]ompliance with the relevant Standards by 25% of each type of service ...'

Standards and 'type of service'

Apart from the requirement to ensure all new conveyances coming into public transport use are compliant, the Transport Standards require effectively that at 31 December 2012, sufficient vehicles must be compliant with the standards to ensure that 55% of 'each type of service' is compliant in relation to specified elements.

¹⁷ *Disability Standards for Accessible Public Transport 2002* (Cth) Part 33, cl 33.2 and Schedule 1.

¹⁸ *Disability Standards for Accessible Public Transport 2002* (Cth) Part 33, cl 33.1

In respect of buses and coaches and related premises¹⁹ and infrastructure, this 55% performance standard applies to the following in respect of ‘each type of service’:

- access paths, manoeuvring areas, passing areas, boarding, allocated spaces, stairs, tactile ground surface indicators and street furniture.
- resting points, lifts, toilets, doors and doorways (other than in respect of bus stops);
- waiting areas, symbols, signs, lighting and information at bus stops (all other public transport components were to be 100% compliant in respect of waiting areas, sign, symbols, lighting and information by 2008²⁰);
- surfaces, handrails and grabrails at bus stops (all other public transport components were to be 100% compliant in respect of surfaces, handrails and grabrails by 2013²¹).²²

Some other elements have 100% compliance requirements by the end of 2007 or 2012, other than in respect of bus stops, and for which the Transport Standards do not specify any compliance percentage in respect of bus stops for 2012:

- 100% compliance by 31 December 2007: furniture and fittings; hearing augmentation; booked services; food and drink services; belongings; and priority;
- 100% compliance by 31 December 2012: gateways; payment of fares; and vending machines;

There are, unfortunately, inherent difficulties in interpreting what ‘type of service’ means in this context. While the *Disability Standards for Accessible Public Transport Guidelines 2002* (Cth) (the Guidelines) provide some guidance²³, it still leaves significant room for interpretation. The requirement that 55% of services are accessible by 2012 may mean, for example, that over half of all services on each route should be available to people with disability; that is, slightly more than every second bus. Alternatively ‘type of service’ may refer to ensuring that all services on over half of the routes are fully accessible or it may apply to 55% of peak services and 55% of non-peak services. I note that the Guidelines do state:

... However, it is expected that [operators and providers] will give priority to main routes or key facilities to maximise the short-term community and commercial benefits. Operators may benefit from consulting with people with disabilities before making these decisions.²⁴

¹⁹ Other than, in some instances, premises to which the *Disability (Access to Premises - Buildings) Standards 2010* (Cth) apply. See, for example, *Disability Standards for Accessible Public Transport 2002* (Cth) Sch 1, Pt 1, cl 1.2.

²⁰ *Disability Standards for Accessible Public Transport 2002* (Cth) Sch 1, Pt 2 has the target date of 31 December 2007.

²¹ *Disability Standards for Accessible Public Transport 2002* (Cth) Sch 1, Pt 2 has the target date of 31 December 2012.

²² See Appendix 1 for a table setting out the compliance timetable requirements that apply to conveyances, premises and infrastructure relevant to buses and coaches.

²³ *Disability Standards for Accessible Public Transport Guidelines 2002* (Cth) cl 33.5.

²⁴ *Disability Standards for Accessible Public Transport Guidelines 2002* (Cth) cl 33.3.

Interpretation of the meaning of 'type of service' varies and there is an urgent need for this review to clarify its meaning.

As part of the 2007 Review, state and territory governments across Australia reported significant differences in the number of accessible buses and the number of services that were compliant. For example, NSW reported that 43 per cent of its government bus fleet was accessible, but only 25% of services; similarly SA reported that 59% of its buses were accessible, with around 25% of services accessible. At the same time Victoria reported that over 50% of its metropolitan bus services were accessible, without identifying how many vehicles were compliant.

While the basis on which these calculations are made is not available, it is clear that there are inconsistencies in the number of accessible vehicles and the proportion of services that are accessible, and it is likely that there is significant variation in the basis for calculation. It is therefore not possible to readily determine the extent of compliance with the percentage performance standards in this regard.

Confusion over the exact meaning of the standards and how the timetabled provisions are to be interpreted has led to a lack of transparency in the monitoring of compliance and apparent underperformance against the standards. I consider that this is a matter that requires agreed interpretation and a nationally consistent approach to measurement.

Another aspect of the confusion over interpretation of the Transport Standards arises from the very structure of the standards themselves. It is very difficult for providers to piece together how the Transport Standards apply to their particular aspect(s) of the provision of public transport. This results from the obligations for different modes being all dealt with together, the lack of clarity in the actual presentation of each standard with the information about application at the end of each standard, and the compliance timetables being dealt with separately and, again, in a fragmented manner.

This has led to considerable difficulty for operators and providers trying to apply the Transport Standards to their particular mode of transport, whether it be bus, coach, train or tram, for example. This issue was raised in the 2007 review and it is very disappointing that nothing appears to have been done to address these concerns.

I consider there is a compelling case for the establishment of modal-specific standards for vehicles, infrastructure and service levels and urge transport regulators to address this as a matter of urgency.

Metropolitan transport services

Regular passenger transport services (RPT services) in metropolitan areas of Tasmania are principally supplied by Metro Tasmania Pty Ltd (Metro), which is a state-owned company established in 1998.

Metro provides services to urban passengers within Hobart, Launceston and Burnie as well as a range of services to regional areas. Metropolitan services are specified within a contract between Metro and the Tasmanian Transport Commission and regional services are delivered under individual route contracts.

As at July 2011, Metro reported having a fleet of 224 buses, including 78 accessible buses (Hobart 60, Launceston 14 and Burnie 4). Metro also reported that approximately 48.5% of weekly general route service trips were delivered by accessible buses.²⁵ As I understand this, it means that the actual conveyances being used to deliver these 48.5% of service trips are compliant with the technical specifications for conveyances. It does not identify the extent to which the other elements of the service meet the relevant standards.

Information provided by stakeholders suggests that there continues to be significant issues with access to bus services.

Whilst the number of accessible buses available to service general access routes has continued to grow, the availability of accessible services remains limited even on the most commonly accessed bus routes.

One of the clear messages from stakeholders is that they cannot yet rely on the public bus system as their preferred form of public transport. People requiring physical access report that even where there is an expectation that a service will be accessible, it is can be the case that the bus supplied for the service on that route is not accessible, forcing the user to cancel travel plans, wait for another service or rely on WAT services.

The level of concern expressed by stakeholders suggests that progress toward meeting the standards has not measured up to expectation. I acknowledge that it is sometimes inevitable that accessible buses may be unavailable due to breakdowns and delays on other routes. However, as the implementation timetable passes the half-way mark operators should be expected to have sufficient accessible buses in their fleet to establish a timetable identifying which services will be operated with an accessible bus and deliver on that timetable.

Other elements of compliance also need to be addressed to ensure that people with disability other than mobility disabilities feel confident enough to rely on bus services. Some aspects of these elements are addressed further below.

²⁵ Metro Tasmania, *Disability Action Plan 2011-2022* available at <<http://www.metrotas.com.au/about-us/disability-action-plan-2011-2022>>.

Non-metropolitan transport services

Most non-metropolitan services in Tasmania are supplied through a range of contract arrangements between the Tasmanian Government and private transport operators. This includes Phoenix Coaches (operating as Merseylink in Devonport); Redline Coaches (statewide); Tassielink (statewide coaches and tours); Manions' Coaches (west Tamar) and O'Driscoll Coaches (Derwent Valley).

Information regarding the accessibility of non-metropolitan services is difficult to obtain.

I have been advised by Redline that it anticipated meeting the Transport Standards requirement to achieve the 55% compliance obligations in respect of 'each type of services' by 31 December 2012. Whilst I am unable to confirm whether the 2012 target has been met, I note that a revised timetable for services between Hobart and Sorell/Dodges Ferry issued in December 2012 identifies all services as accessible and that the company's timetable for route services between Hobart, Launceston, Devonport, Burnie and Smithton indicates that physical access is available on all services, although users are required to book with the company in advance. On the face of it, this suggests 100% of the fleet is compliant with the technical requirements for conveyances. However, it is my understanding that this is not the case and the provision of an accessible vehicle is only possible if a person calls at least 48 hours in advance and specifically identifies the need for such a vehicle. This lead time allows Redline to make arrangements to put one of its accessible vehicles into service for that particular journey. It is not clear what would happen if several passengers required accessible vehicles at the same time on different routes or on consecutive journeys over the same route.

The accessibility of Redline's airport shuttle service cannot be verified and stakeholders have advised that the buses for this purpose are not generally accessible to people with disability.

Merseylink operates route services in Devonport, Spreyton/Latrobe, Ambleside, Shearwater, and Quoiba/Stoney Rise. I am unaware whether the company has met the compliance timetable set out in the Transport Standards. I note, however, that whilst there is provision in its published timetable for identifying whether the service is operated with a DDA-compliant vehicle, the company's website indicates that users seeking wheelchair access are encouraged to ring the operator to request or confirm times of accessible services.

Tassielink offers regular route services across Tasmania including on the east coast, the Huon valley, the west coast and the Tasman Peninsula. Timetabled services are published on the company's website. However there is no information regarding whether any services are accessible. Nor does the company appear to have a publicly available Action Plan.

O'Driscoll Coaches offers general access services between Hobart and the Derwent valley. Wheelchair-accessible services are identified on the company's

timetables, however users are advised to make a booking prior to the trip to confirm that a wheelchair accessible bus is being used on a particular service.

Manions' Coaches indicates that it is able to provide low-floor, wheelchair-accessible buses, but requires this to be confirmed by phone prior to boarding. Timetables for route services indicate that a number of services are wheelchair accessible, but there is a requirement to ring in advance to check availability.

While clearly significant efforts are being made to improve service accessibility, the lack of publicly available data on actual delivery of accessible services and of clear monitoring systems means that it is not possible to be sure the Transport Standards compliance timetables are being met.

Progress toward meeting the Transport Standards would appear to be even slower in regard to tourist and charter coach services. Stakeholders have advised me that even when they have booked a ticket and sought assurance in advance of their journey that the coach would be accessible, they have arrived at the terminal to be told that the vehicle was not wheelchair accessible. Nicolas J of the Federal Court of Australia recently considered the extent to which charter services are within the scope of the Disability Standards in *Haraksin v Murrays Australia Limited (No 2)* [2013] FCA 217 (14 March 2013):

91. The question whether the Standards apply to the respondent's charter services depends upon whether they constitute a "public transport service" as that expression is defined in s 1.23 of the Standards. It was submitted by Senior Counsel for the respondent that the Court had no power to make any orders in relation to the respondent's charter services because they are not public transport services for the purpose of the Standards.
92. A public transport service is defined in s 1.23 as an enterprise that conveys members of the public. Adopting a literal interpretation of the definition, a public transport service is an enterprise that provides a type of service. However, the definition must be interpreted in its proper context. The preferable view of s 1.23 is that it defines a public transport service as a type of *service* that is provided by an *enterprise* rather than as an *enterprise* that provides a type of *service*. This interpretation is consistent with s 31(1) of the DD Act as it stood when the Standards were formulated. Section 31(1) allowed the Minister to formulate the Standards relating to the provision of public transportation services.
93. There are two other reasons why the definition of public transport service should be understood as referring to a service provided by an organisation rather than an organisation that provides a service.
94. First, this interpretation of s 1.23 accommodates the language used in s 1.20(1) which defines an "operator" as "a person or organisation ... that provides a public transport service ...". Thus, the operator is not defined to be the person or organisation that conducts the relevant enterprise but as the person or organisation that provides the relevant service.
95. Secondly, the Standards frequently refer to operators or providers and the services or infrastructure they provide. For example, s 32.1 specifies when the Standards apply, and does so, in the case of services, by reference to the date upon which relevant services are provided.
96. One consequence of this interpretation of s 1.23 is that the Standards apply not to all vehicles used in the respondent's enterprise, but only to those vehicles used by the respondent to provide the relevant service, namely the carriage of members of the public.

97. It is the persons conveyed who must be members of the public for the definition in s 1.23 to apply. Not everyone is a member of the public for the purposes of the definition. In determining whether the persons conveyed in the respondent's vehicles are members of the public it is necessary to consider what it is about those persons that led to them being conveyed. They will only be members of the public for the purposes of the definition if they are conveyed in the respondent's vehicles as members of the public.
98. If a bus is chartered to a sporting club so that the members of the club might be conveyed to a sporting event, then the members of the club will be conveyed not as members of the public but as members of the club. It is their membership of the club which entitles them to ride in the bus. Of course, the position would be different if members of the public were also permitted to ride in the bus. In that situation the respondent would be conveying members of the public for the purposes of the Standards.
99. But it does not follow that every charter arrangement entered into by the respondent will be for the conveyance of persons who are not members of the public for the purposes of the Standards. If a provider of transport services to the public chartered a bus from the respondent to convey members of the public due to the provider's lack of capacity then there is no reason to think that the respondent would not be conveying members of the public merely because it did so pursuant to a charter arrangement.
100. It was submitted on behalf of the applicant and the Disability Discrimination Commissioner that the definition of "public transport service" should be given a liberal interpretation. In this regard, they submitted that a broad interpretation of the words used would serve to promote the objects of the DD Act.
101. I accept the submission that the Standards should be liberally construed. However, the construction of the relevant definition contended for by the applicant and the Commissioner is founded upon the proposition that every person who is conveyed in the respondent's vehicles will be a member of the public. In my view, this construction ignores words that impose an important limitation upon the area in which the Standards were intended to apply. Of course, as the Commissioner submitted, even if the Standards do not apply to charter services, ss 23 and 24 of the DD Act still apply.
102. The question whether any charter services provided by the respondent constitute a public transport service ultimately depends upon the particular charters that are undertaken. I think it may be inferred from the evidence that many of the persons conveyed in the course of the respondent's charter operations are conveyed as members of various clubs or associations or travel or tour groups and not as members of the public. These persons are conveyed by the respondent because of some particular association or relationship they have with the charterer.

It would be useful, at minimum, for this interpretation to be distilled into the Transport Standards as a result of this review. If it does not reflect the intention of the Australian Government, amendments need to be made to ensure the intended interpretation is achieved.

Services such as those provided to transport people to and from airports within the State remain largely inaccessible. This means that people with disability cannot choose the often cheaper option of travelling to the airport using a bus service and are forced to rely on the use of WATs or private vehicles.

As noted in respect of metropolitan services, the provision of a bus or coach that meets the technical specifications set out in the Transport Standards does not

mean that the service is 100% compliance as there are a range of other standards that must be met. These are considered below.

Communication of service information

There are two ways in which the communication of service information is critical to public bus and coaches services offering equitable services for people with disability:

- the provision of information about services in accessible formats; and
- the provision of the information about services that are accessible for people with mobility disabilities.

The inability to plan around regular accessible services creates particular problems for people with disability that have work and other commitments

Accessible formats

A major problem raised with me is the lack of accessible information about timetabling.

The compliance timetable for transport information states that 100 per cent of general transport information was required to be accessible to people with disability by 31 December 2007.

Representations made to me and review by my office of materials available on various bus and coach service providers indicates that compliance with this standard has yet to be achieved in any meaningful way.

The availability of reliable travel information in accessible formats is critical to enabling people with disability to make travel plans and ensure that they are aware of those services that meet their needs. The absence of mechanisms for conveying travel information in accessible formats means that people with vision impairments, for example, have to go to significant additional effort to ascertain what service are available and when.

Metro has a hotline service to inform the public about services and routes. Users have reported to me, however, that this service has not provided an adequate mechanism for responding to people with disability. Stakeholders have told me that the hotline number is not always answered and has very limited operating hours. In addition, the hotline is not accessible for those with communication difficulties and stakeholders report that those staffing the hotline have little understanding of disability issues.

Similarly, I note that web-based timetables are often not provided in an accessible format and timetabling changes are not communicated well. Written material is often in PDF²⁶ and in small text and complicated changes to

²⁶ While there has been progress in improving the accessibility of PDF documents, information provided in PDF is generally inaccessible to blind people and people with low vision.

timetables are difficult for many to understand. Nor is web-based information appropriate for those who are not technologically proficient or do not have access to the internet.

Information about accessible services

People with mobility disability have expressed concern to me about the continuing unreliability and difficulties in accessing information about which services on a route will be physically accessible.

While many service providers indicate that all services on a particular route are wheelchair accessible, passengers with mobility disability are required or advised to call in advance of their travel to check.

This has become of particular concern in Tasmania because of a decision by Metro to remove information about accessible services from its published timetables.

As a consequence, people requiring accessible metropolitan bus services are required to ring the bus company every time they wish to travel. For some users, phone communication presents its own particular problems (where verbal communication is impaired for example) and despite an announcement that Metro intended to trial SMS communication for those whose spoken communication is impaired, advice from stakeholders suggests that this service is not yet available.

The effect of these arrangements (those implemented by both Metro and other providers) is that passengers requiring wheelchair accessible services are required, as a matter of course, to do more than a person not requiring such a service, in that they must call the service operator to determine whether or not the service they wish to travel on will be accessible.

Because of this, many people with disability report that it impossible to plan ahead or to rely on buses as a primary form of transport.

The impacts include that people with disability who want to engage in paid or unpaid work on a regular basis, people needing to make bookings for appointments and people wanting to participate in education or training find that they cannot plan their travel arrangements in advance.

For example, a person may need to make an appointment to see a specialist when they are next in Tasmania, which could be several months hence. They cannot make such an appointment knowing that they can use public transport to get to that appointment in a timely way. When the day of the appointment arrives, they may find that they have to leave home or work hours earlier than they should need to because of when accessible buses are scheduled on the routes they need to travel on. They may even find that they cannot use the local bus service to get to the appointment because there are no accessible services scheduled such that they could be sure of arriving at their appointment in time.

This is distinctly different from the experience of people without physical disabilities who can simply review the timetable at the time they are making their appointment and know that they are able to get to the scheduled appointment. Even if there is a change to the timetable in the interim, or a bus breakdown or delay, they will have a range of choices to achieve arrival at their appointment on time.

Similarly, a person who requires physically accessible buses who wants to apply for a job with normal working hours may find it difficult if not impossible to ensure they arrive at work on time each day using bus services. This is likely to result in them having to contact WAT services to assist them when they find themselves stranded. The availability of WATs at peak hours is a problem and for a person without a regular booking a WAT is less likely to be available. In addition, even with the tariff rebate under the Transport Assistance Scheme, there is a significant difference between the cost of catching a bus and the cost of catching a taxi. This is generally a cost that a person with disability is less likely to be able to afford.

Pre-booking

The requirement to pre-book to ensure that wheelchair accessible vehicles are used is a common requirement with regard to coach services and non-metropolitan general access services in Tasmania. A number of bus operators provide a timetable that indicates that a route will be operated using an accessible vehicle, but require those wishing to use the service to pre-book.

I have been advised that in some instances despite the timetable indicating that an accessible bus is being used, in fact the vehicle used is not accessible. This prevents those who use wheelchairs from identifying accessible services by using the timetable alone, and means that people who have mobility disability are required to check for each journey whether the bus is accessible and in many cases book their journey in advance. On this basis it is clear that the timetables issued by transport operators are not currently a sufficient basis on which to determine whether a service is accessible, even in circumstances where they have identified that a route is wheelchair accessible.

As outlined earlier, Part 27 of the Transport Standards provides that operators will supply all passengers with information necessary to use a transport service. Unless all passengers are required to pre-book at ticket, imposing as a condition of service the requirement that a person with disability must pre-book treats passengers with a disability differently from all other passengers and may amount to unlawful discrimination under both federal and State anti-discrimination law.

I note also that if a service is a booked service rather than a scheduled service, Transport Standard 28.2 requires that any advanced booking requirement must not exceed the period of notice specified for other passengers. Information provided to me suggests that some operators are not complying with this requirement and, as such, are operating in breach of the Transport Standards.

Under the Tasmanian Act, indirect discrimination takes place ‘if a person imposes a condition, requirement or practice which is unreasonable in the circumstances and has the effect of disadvantaging a member or group of people’ who share a prescribed attribute.²⁷ It is clearly arguable that the situation whereby passengers who have disability are required to pre-book in advance of other passengers and/or check with operators about the accessibility of every service disadvantages people with disability more than other people and, as such, is likely to be unlawful.

In-service notifications

The identification of set-down points is a major problem for passengers with vision impairment. People with vision impairment using bus or coach services will often rely on the driver to inform them when they are at or approaching their stop. Some representations have been made to me to suggest that this system does not work consistently and that, on occasion, passengers with vision impairment have had to undertake a repeat circuit of the route because their stop was missed.

Standard 27.4 of the Transport Standards requires that all passengers must be given the same level of access to information on their whereabouts during a public transport journey and standard 27.2 requires that if information cannot be supplied in a passenger’s preferred format, equivalent access must be given by direct assistance. The target date for 100% compliance with Part 27 was 31 December 2007 for all conveyances, including buses.

In situations where it is not the usual practice to provide regular information to passengers regarding where they are on a particular journey, such as is the case in relation to bus services that follow a set route, there is a need to identify and implement specific arrangements to assist people with vision impairment.

Federal Magistrate Raphael in his recent decision in *Innes v Railcorp (No 2)* (2013) FMCA 36 (1 February 2013) observed in relation to the provision of information:

The respondent argues that the provision of information as to the whereabouts of a train upon its journey between departure point and destination is not an essential part of the service. It argues that travellers in a bus do not have this information and nor do travellers in an aeroplane. It is easy to dismiss the argument relating to aeroplanes because the fact is that oral announcements are made whenever an aeroplane lands at a destination so a passenger will know where he or she is. Without appearing supercilious it should also be noted that passengers do not have the ability to leave an aircraft at any time during flight. The situation on buses is slightly different although, at least in Sydney (and that is the city in respect of which this case is concerned), many bus stops now have signage indicating their whereabouts. And a bus is not a train. It is a relatively small conveyance driven by a driver who is accessible to the public and who can be, and expects to be, asked to announce specific destinations for passengers who are unaware of them. The driver

²⁷ *Anti-Discrimination Act 1998* (Tas) s 15.

of a train is not so accessible. The evidence is that most of the trains upon which Mr Innes travelled had eight carriages, and a limited number had either four or six carriages. A blind person would not know in which carriage the guard might be when he boarded the train or the extent to which the guard would be moving from carriage to carriage in connection with his or her duties. It goes without saying that passengers on a railway need to know when they have reached their destination. Unlike air travel their destination will not always be, and frequently will not be, the final and (equally frequently only), stop on the journey. Thus information as to the name of the stations through which trains pass is essential for any traveller to know where to get off. Alighting a train may involve leaving one's seat and moving to the door. It may involve picking up luggage stowed elsewhere or above the seat, it may involve closing down equipment such as a computer being utilised on the journey. It may involve going to the toilet prior to a lengthy walk from the station and it may involve telephoning ahead to advise a person of the passenger's arrival so that he or she may be picked up at the station.²⁸

Federal Magistrate Raphael also noted (at paragraph 50 of the judgment) that the Guidelines, in relation to Part 27 of the Transport Standards, state operators may choose to announce scheduled stops as one way of informing passengers of their whereabouts during a journey. It goes without saying that the approach used to making these announcements must be reliable in all circumstances and training of staff should include instructions on how to provide assistance.

Restraints

Some people with disability have raised safety issues in relation to wheelchairs being transported by bus or coach.

Part 9 of the Transport Standards covers the allocation of space within accessible vehicles, including standards relating to the restraint of a mobility aid. Standard 9.11 provides that an allocated space must 'contain movement' of a mobility aid towards the front or sides of the vehicle.

The Guidelines make reference to the use of both active and passive restraints.²⁹ An active restraint anchors a wheelchair or mobility aid into an allocated space. A passive restraint system relies on a vertical surface, such as the sides of the vehicle, the back of fixed seating or a padded rail, to prevent a wheelchair from rolling or tipping.

The lack of seatbelt, locking device or passive restraint system heightens the risk that a wheelchair user may be thrown or tipped from the chair. One person reported to me that people in wheelchairs are reluctant to travel on buses because of the risk of being thrown out of their wheelchair (which he had seen happen) due to the failure to provide adequate restraining systems.

Manoeuvring areas

I have also been advised that many wheelchair users are reluctant to use public transport because the manoeuvring area provided is too tight, making it difficult

²⁸ *Innes v Railcorp (No 2)* (2013) FMCA 36 (1 February 2013) at ¶35.

²⁹ *Disability Standards for Accessible Public Transport Guidelines 2002* (Cth) Pt 9, Div 9.2.

for them to turn their wheelchair to get in and out of the allocated space and the vehicle.

The Transport Standards require compliance with the relevant standard for manoeuvring areas for 55% of each type of service by the end of 2012.

Standard 3.1 of the Transport Standards provides that circulation spaces are to be in accordance with Australian Standard AS1428.2 (1992) and standard 3.2 requires that passengers in wheelchairs or using mobility aids must be able to enter and exit the vehicle and position their aid in the allocated space. The standard provides that if this is not practicable, operators must provide equivalent access through the provision of direct assistance.

Based on the requirements set out in the Transport Standards, a passenger using a wheelchair or mobility aid on an accessible service should be confident that sufficient space has been allocated to operate the wheelchair or aid independently into and out of the vehicle and the allocated space or that assistance will be made available to allow entry and exit from the vehicle.

Whilst there is no available evidence to determine whether compliance with these standards has been achieved, I believe it is an area that should be subject to active compliance monitoring and public reporting by transport authorities.

Allocated space

People who use wheelchairs have reported to me that they are often forced to compete for space with other users (such as people with prams³⁰) and this has resulted in a refusal to allow them to get on the bus due to the available seating already being taken.

The Transport Standards require that 55% of each type of service must be compliant in relation to allocated space by the end of 2012. Standard 9.9 provides that allocated space may be used for other purposes *if it is not required for use* by a passenger in a wheelchair or similar mobility aid. Standard 31.2 stipulates that, in respect of buses, 'operators must inform all relevant passengers ... that they should vacate an ... allocated space if a passenger with a disability requires it'. This is a standard that required 100% compliance by the end of 2007. I understand this to mean that a person using a wheelchair should not be excluded from getting on a bus because there is already a person, other than a person with disability, using the allocated space. Reports in 2013 indicating refusal of service on this basis clearly indicate a breach of the Transport Standards.

It is not possible to determine to what extent the timetable has been met in relation to these standards. It is possible that the allocated space requirement has been met and that there is signage in place indicating priority for people

³⁰ I note that I have also had reports from parents with prams that they have been refused carriage in a conventional bus and been told they have to wait for an 'wheelchair bus'.

with disability. This does not, however, ensure that drivers are effectively trained to ensure that priority is being afforded to people with disability and this is a necessary corollary of the 100% compliance requirement.

Nevertheless, in order to ensure that the standards are being met within the stipulated time, it is suggested that operators be asked to review their approaches to service provision and, if necessary, ensure that there is extra space allocated to other users to avoid situations where a wheelchair user is displaced because the allocated space is otherwise occupied.

Customer service

Stakeholders have reported problems with the approach drivers take to passengers with disability. In particular, several people complained about drivers taking off before they are able to get safely seated and, in some cases, a failure to provide assistance to enter or leave the bus. Reports of drivers who 'act like it's a hassle' remain all too frequent.

There is currently nothing in the Transport Standards about these aspects of service delivery. Part 37 of the Guidelines indicates that the Transport Standards presume that operators will ensure that their staff members are proficient in interacting with passengers in ways that do not discriminate against them on the basis of disability. The Guidelines recommend that staff orientation and awareness programs include education about disability awareness and rights.

It is not clear that all operators ensure all staff have effective education or training in this regard and I consider it would be appropriate for this to be more formally described in the Transport Standards themselves and subject to reporting to transport regulators and monitoring by those regulators as part of licensing and contractual arrangements.

Routes

Several stakeholders reported that alterations to bus routes (particularly as a result of government or operator fiscal restraint) can result in the nearest bus stop being a large distance away from where the person with disability lives. Several people reported that they had specifically chosen their housing location in order to be close to public transport routes. In situations where movement is restricted, a change of routes can mean that either the option of bus travel is ruled out or it is necessary to use WAT services to provide transport to the nearest bus stop.

It is my view that the Transport Standards could usefully include provisions to ensure that route planning and/or amendment give appropriate consideration to the impact on users with disability, including through consultation with relevant disability groups.

Bus stops

Accessibility of transport infrastructure continues to be an issue raised by people with disability.

Participants at the forum in Launceston were only able to identify one or two accessible bus stops in the Launceston area, a city with over 64,000 residents. Similarly, in Hobart participants reported that there were still many bus stops that remain non-compliant with the standards.

By now, 55% of most aspects of bus stop infrastructure should be compliant. On this basis, more than one in two bus stops should meet the standards. These reports indicate that this has not been achieved.

Some people also raised the issue of access to the bus stops themselves. For example, one person raised the issue of public housing being built to accessibility standards, but the path of travel from housing to the bus stop being inaccessible because of the placement of poles or other infrastructure. Similarly the footpaths on the way to the bus stop may not be suitable for people with mobility or vision impairment.

While these are not matters for providers or operators of public transport services, the experience of users suggests that the provision of accessible infrastructure needs to be considered in the context of the whole built environment in which people with disability live. Again, this is a matter that should be taken into consideration when designing or amending routes.

On the positive side, I note the funding initiative by the Tasmanian Department of Infrastructure, Energy and Resources to assist non-metropolitan providers to improve bus stop accessibility. Whilst it is hoped that this initiative will result in the introduction of increased number of accessible bus stops, there remains confusion in many areas around responsibility for the funding and maintenance of bus shelters and this impedes the roll-out of accessible infrastructure. Slow roll-out of accessible infrastructure means that in many cases the overall timetable for the compliance with the Transport Standards cannot be met, or, if it is being met, that user uptake is not as anticipated. The timetable requires that 90% of bus stops be compliant with the relevant standards by the end of 2017 and that 100% compliance is achieved by the end of 2022.

Similarly, complaints have been received from stakeholders regarding the lack of information identifying accessible bus stops.

School buses

The accessibility of school buses remains an issue for people with disability, particularly in situations where students with disability are reliant on accessible vehicles to access school and related activities.

Parents of children with disability have advised me that where a child is unable to access the usual school bus service, parents have to rely on WAT services to get their child to school. This imposes an additional expense on families, above what others are required to pay.

Recommendation 14 of the 2007 review called for the phase-in of physical access requirements to dedicated school bus services, commencing in 2029 and being fully required by 2044.

Whilst Metro provides the majority of metropolitan student bus services, rural school bus services are predominantly the domain of part-time bus operators in Tasmania. Whilst some larger operators of general access services also provide school bus services, owner-operators with one or two buses remains the most common arrangement. There are no constraints on the uses to which buses operating school routes may be put and many operators also use the same vehicles to operate other services, including tour and charter services. There are very few standards or design requirements for school buses and Tasmania has tended to have one of the oldest school bus fleets in Australia. Many of the buses are ex-Metro buses or buses that have been previously used on regular passenger transport routes. If this continues, then the non-accessible buses being taken off general route services by the metropolitan and non-metropolitan operators are likely to move into school bus use and the problem of inaccessibility for students will not be resolved in the medium term.

The exclusion of students with mobility impairment from school bus services clearly disadvantages those students (and their families), not only through imposing the requirement that they make separate transport arrangements and pay the additional costs of such arrangements, but also through those students being excluded from the social interactions with their peers that occur on the way to and from school. I recommend that this matter be fully addressed as a priority of the current review.

D. Community transport

Standard 1.24(2) specifies that a public transport service includes community transport vehicles that are funded or subsidised by charity or public money and that offer services to the public. I note the 2007 Review Report referred to the 'current exclusion of community transport from the Transport Standards', and that the meaning of 'offer services to the public' is not clear.

It is my view that it is not accurate to suggest that community transport is excluded from the Transport Standards. Rather, some community transport will be outside the scope of the Transport Standards and other community transport will be within scope. A single community transport operator could be operating some services that are within scope and others that are not.

It is apparent, however, that many community transport providers are unaware of what obligations may apply to them under the Transport Standards.

The Tasmanian Government, *Cars for Communities* program, for example, was launched in 2010 to assist communities purchase vehicles (primarily buses) to provide local transport services to meet community transport needs, including for example facilitating access to various neighbourhood house programs and social activities. Approximately 30 vehicles have been purchased under the program. It is evident, however, that the program did not include a requirement that community vehicles be accessible and many of the vehicles that have been purchased are not suitable for the transport of passengers who use wheelchairs or other mobility aids. Nor is it apparent that the organisations that are operating those vehicles have been required to ensure appropriate training for staff (including volunteers) driving the vehicles to ensure non-discriminatory service provision.

Similarly, publicly available information on community transport services under programs such as the Home and Community Care Program (HACC), which specialises in providing transport for the frail aged and people with disability, suggests that only a small number of the vehicles in the fleet are accessible.

The Transport Standards apply to all operators and the vehicles they use to provide public transport services. No exceptions are made in respect of either to the accessibility requirements or compliance timetable for community transport vehicles that meet the definition.

In situations where community transport forms a core part of the public transport infrastructure within communities, I believe it is incumbent on transport regulators to ensure that community transport vehicles and operators are compliant with the requirements set out in the Transport Standards.

It should be noted that the growth of community transport, particularly if it is provided using wheelchair accessible vehicles, creates a potential problem for

ensuring there is sufficient demand for WATs. Because of this potential, it is necessary that those responsible for the establishment of community transport funding programs work closely with the taxi industry regulators (and other transport regulators) to ensure that such programs do not create a parallel transport system and thereby undermine efforts to ensure that public transport systems are effective and accessible.

Ensuring that community transport is clearly required to meet the same standards in terms of accessibility of vehicles, information, booking systems and other customer service may go some way to ensuring that community transport is seen as a lower-cost alternative to effective public transport systems.

E. Airports and aircraft

Requirements under the Transport Standards are intended to ensure that both aircraft and supporting infrastructure, including airports, are accessible to people with disability.

Under the Transport Standards, by the end of 2012 55% of air services and airport infrastructure were to comply with the standards in relation to boarding ramps or devices to assist people getting on and off aircraft; manoeuvring areas; passing areas; the size of doorways and the use of automatic doors; the provision of toilets; waiting areas; and other matters including the provision of information on aircraft and in air terminals. In addition, all new airport terminals are to be accessible.

The Transport Standards apply to all aircraft that have a seat capacity of 30 or more.

It is clear from feedback I have received, however, that the degree to which services are accessible for people with disability varies and accessing air travel remains a significant challenge for people with disability. As noted in the introduction this poses a particular challenge for people with disability in Tasmania, where interstate travel is predominantly undertaken through airline services due to the impossibility of land-based options.

Airline policies regarding the provision of accessible services are inconsistent and often result in considerable difficulty for those wishing to travel outside the State.

I have received complaints, for example, about the impact of airline policies that restrict the number of people who require mobility assistance to two per flight. For example, one complainant who uses a lightweight, manual wheelchair was traveling with two friends who also use lightweight, manual wheelchairs. The airline refused to accommodate him on the flight he had booked, despite the booking being made many months in advance. As a result, the passenger had to travel on a separate flight to the other two friends and this meant that a significant amount of the time available for them for their weekend away was spent in transit. As a result the complainant incurred additional travel costs and he and his friends were not able to spend as much time together on their trip engaged in the activities for which they had planned that travel.

It may be argued that impact on these three travellers would have been relatively modest had they been travelling between destinations that have hourly flights. However, the fact that services are less regular in and out of Tasmania meant that significant amounts of time were spent by the travellers waiting at the airports.

I received a complaint from another air traveller who was required to use the services of two different airline operators to reach their destination. The first operator used a particular lifting system to assist with embarkation and disembarkation. The second airline, however, did not use such a system and little or no assistance was given to the passenger by airline staff. During the journey the passenger was left in a narrow 'aisle' chair waiting to board for a period in excess of three hours, causing significant physical pain and risk of injury.

Others have reported that airlines have done little to accommodate special seating requests and that many aircraft have non-movable armrests that can make seating arrangements very difficult for a person with disability.

One person with physical disability complained about an airline policy that required them to be seated in the seat nearest the aisle. This, combined with the requirement that passengers requiring assistance with boarding are boarded first and disembarked last, meant that other passengers were required to climb over them once they were seated.

Issues related to the accessibility of on-board infrastructure, such as toilets, also remain of concern as is the manoeuvring space provided in these areas.

On the basis of this information, it is clear that there remains considerable divergence of approaches across airlines, promoted in part by the way in which the Transport Standards are cast and the limited coverage of airline issues in the Transport Standards. This has led to different interpretations of the legal requirements. It is further complicated by the way in which airline bookings are managed and the failure of major airlines to ensure that staff members are appropriately trained in the correct procedures for assisting people with disability.

It is disappointing that the National Airline Access Working Group has not achieved improvements in many of these areas of critical service delivery.

Access to airports also raises particular difficulties for people with disability. I have referred above to the lack of accessible transport to and from airports in Tasmania due to the lack of accessible bus services. Added to this is the impact of restrictive requirements in relation to pick-up and drop-off points outside of terminals and the particular difficulties raised for people with disability by security conditions in and around air terminals.

I have also received recent reports of problems with the way in which the security screening has been implemented. I understand that work has been undertaken on ensuring appropriate security screening of people with disability by the relevant federal transport regulator. However, it appears that this work has not necessarily translated to consistent improvements in practice on the ground.

These are all matters that I consider require attention in order for the Transport Standards to be fully implemented within the relevant compliance timeframes.

In relation to air travel, as with other public transport services, my view is that a modality-based approach must be developed at a national level to ensure that the obligations on operators are clear, gaps in coverage are more readily identified and filled and that the intent of the Transport Standards is fully achieved.

F. Interpretation, implementation and compliance

Implementation of many requirements set out in the Transport Standards requires interpretation of the requirements, which in turn requires knowledge of technical specifications and how these are applied.

Many of the technical specifications are not publicly available—because they are contained in the Australian Standards³¹—and this impacts significantly on the capacity of individuals with disability and/or their advocacy organisations to have access to the detail of the standards.

As a number of organisations representing people with disability noted in the context of the 2007 Review, the Transport Standards also contain a degree of complexity that makes them difficult to understand and this is exacerbated by the link to external benchmarks in the form of the Australian Standards. This impedes the capacity of individuals, or indeed their representative organisations, to ensure that the Transport Standards are being met.

Adding to the complexity is the manner in which the Transport Standards are set out, with the relevant standards applying, for example, to buses being found in a number of different parts, and the compliance timetables in Schedule 1 fragmenting compliance requirements, firstly by date, then by application to particular elements and also by responsibility. A number of organisations have previously called for the development of a modal-based approach, such that all requirements for each particular mode of transport are brought together to provide separate modal sets of authoritative standards that can be consistently implemented on a national level. As noted previously in this submission, this approach would have the benefits of simplifying and clarifying obligations, allowing gaps to be more readily identified, and enabling proper consideration to be given to the particular industry structures and regulatory arrangements.

It is my view that it is not appropriate, nor should it be expected, that people with disability themselves and/or their advocacy organisations have the resources, necessary skills and access to all aspects of public transport services to monitor compliance with technical matters such as doorway heights or dimensions, luminance contrasts, etc. A different approach to compliance is needed urgently if Australian governments and people with disability are to be able to have confidence that equitable access to public transport for people with disability will be achieved within the stipulated timeframe.

³¹ The cost of purchasing all of the relevant Australian Standards would be prohibitive for individuals for disability, many of whom are reliant on income support or low wages, and for advocacy organisations that are reliant on limited government funding.

While some evidence suggested that operators are making timely progress toward implementation of the Transport Standards, implementation remains slow and uneven across transport modes, resulting in a continued lack of ‘whole of journey’ accessibility for people with disability.

As a consequence, people with disability are unable to rely on public transport services being accessible.

The 2007 review of Transport Standards was the first opportunity for stakeholders to assess progress on the effectiveness and efficiency of the standards in its first 5 years of implementation.³²

The review report identified a number of systemic, technical and mode-specific actions for advancing the implementation of the Transport Standards at a national level, including important changes to the governance structures to support the implementation of the Standards.

The following table (Table 2) outlines the recommendations arising from the review, including the entity identified by the Australian Government as responsible for overseeing implementation.

Implementation of the 2007 Review findings would have resulted in a more appropriate sharing of responsibility for monitoring, compliance and enforcement of the Transport Standards from individuals and the Australian Human Rights Commission to the regulatory bodies concerned with transport. It is these bodies that have the technical expertise, regulatory systems and oversight of transport reforms.

Importantly, it would also enable effective and timely compliance with the strategies identified in the National Disability Strategy and, more broadly, Australia’s commitments under the UN *Convention on the Rights of Persons with Disabilities*.

However, very little appears to have been achieved.

The lack of progress remains extremely disappointing, and is something that must now be addressed as a matter of priority.

³² The Allen Consulting Group, Review of the Disability Standards for Accessible Public Transport: Final Report (2009) 8.

Table 2. Recommendations from the 2007 Review of the Transport Standards: Responsibility

RECOMMENDATION	RESPONSIBILITY ³³
1 Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory Government	Australian Transport Council (ATC) Ministers
2 Request the ABS to include questions on public transport patronage in their Disability surveys	Australian Bureau of Statistics
3 A technical experts group be convened, with Standards Australia, to develop technical standards specifically suited to public transport conveyances and infrastructure. Once developed, these Standards should be referenced to the Transport Standards and made available for public use.	ATC Ministers/ Standards Australia
4 Mode specific guidelines be developed by modal sub-committees. These guidelines would be a recognised authoritative source for providers, which can be used during a complaints process.	ATC Ministers
5 A mobility labelling scheme be developed which identifies the weight of the aid and whether its dimensions fit within the dimensions for allocated spaces, boarding devices, access paths and manoeuvring areas on conveyances, as specified in the Transport Standards.	ATC Ministers
6 A best practice clearinghouse be established in a government agency or research body to collect and disseminate best practice solutions and ideas relating to accessible transport.	AHRC
7 Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local government are unable to resource upgrades of public transport infrastructure.	ATC Ministers
8 The Australian Human Rights Commission be tasked to provide greater support for representative complaints on behalf of people with disability, reducing the legal cost burden on individuals.	ATC Ministers
9 New governance arrangements be implemented to establish accountability for progressing recommendations from the five-year review. APTJC should have coordinating responsibility for new initiatives (including modal committees and the technical experts group) in partnership with APTNAC.	ATC Ministers
10 The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90% to 80% to better reflect vehicle replacement cycles.	ATC Ministers
11 The taxi modal sub-committee be tasked with developing a staged implementation timeframe similar to that for other modes of transport, and an appropriate performance measure, to replace the 2007 milestone for WAT compliance.	ATC Ministers
12 Government commission research into the safety of passengers travelling in conveyances whilst seated in mobility aids (including scooters). This research should make recommendations around whether there is a need for an Australian Standard addressing this aspect of safety for mobility aids.	ATC Ministers
13 The Transport Standards be amended to require new community transport vehicles greater than 12-seat capacity to comply with the Transport Standards commencing in 2017 (with full compliance by 2032).	ATC Ministers
14 Phased application of dedicated school bus services to physical access requirements in the Transport Standards, commencing in 2029 and being fully required by 2044.	ATC Ministers
15 Air travel modal sub-committee (the Aviation Access Working Group (AAWG)) be tasked to develop guidance on the carriage of mobility aids on aircraft.	AAWG in consultation with Office of Best Practice Regulation

³³ Australian Government, *2007 Review of the Disability Standards for Accessible Public Transport 2002: Commonwealth Government response* (2011).

The 2007 Review report identified several reasons why progress had been poor:

- The lack of a detailed and comparable reporting framework, including data shortcoming and uniform monitoring and reporting requirements.
- The lack of transparency in the Transport Standards, particularly with regard to specific transport modes.
- Exclusion of critical transport modes, such as school buses.
- The lack of transparent and accessible complaints procedures specific to complaints arising from the implementation of the Transport Standards.
- The lack of mechanisms to enable operators to confirm that actions, including equivalent access provisions, are compliant with the Transport Standards.
- The use of exclusions to prevent or limit improved accessibility of services.
- Shortcomings in governance and oversight of the implementation of the Transport Standards at a national level.

These findings remain relevant in 2013 and urgent action is required to address these matters in conjunction with the outcomes of the current review process.

The lack of a detailed reporting framework has significant implications for the capacity to determine with any objective certainty what progress is being made against the timetable for the introduction of accessible services at the end of each 5-year period. As a consequence, it is not possible to provide any definitive assessment of the success or otherwise of duty holders in meeting their obligations under the Transport Standards.

At the same time, little or no progress appears to have been made on addressing critical issues such as including school buses within the framework of the Transport Standards or in addressing matters related to ensuring that the Transport Standards are more transparent and clear guidance is provided to operators regarding their obligations.

Several factors have contributed to this situation. In addition to the difficulties associated with the way in which the original Transport Standards were cast, it is apparent that the Australian Transport Council (ATC) and later the Standing Council on Transport and Infrastructure (SCOTI) have accorded little priority to progressing actions arising from the first review.

Flowing from this is an ongoing lack of confidence in the ability of the industry to make the changes required to provide adequate service levels and frustration among stakeholders with the pace of improvements, resulting in increased tendency to engage in lengthy and costly litigation as the primary avenue of redress.

At the heart of these difficulties is the failure to introduce a compliance system that would ensure that all interests are appropriately represented and system-wide progress is made to implement the Transport Standards.

Of relevance in this context is the relationship between the Transport Standards and the DDA.

Under the current structure, whilst the Transport Standards were formulated under section 31 of the DDA, no clear direction is provided on responsibility for their implementation.

The development of a comprehensive compliance system is critical to addressing these shortcomings.

The Federal Attorney-General has responsibility for implementation of the DDA, but transport matters do not fall within her or his portfolio and there is little capacity to effect the changes required by the Transport Standards. Transport policy and associated actions are the joint responsibility of the Commonwealth, state and territory governments and local government.

Part 34.1 of the Transport Standards provides for the Federal Minister for Transport and Regional Services, in consultation with the Attorney-General, to review the Transport Standards (including advising on any necessary amendments), but is silent on Ministerial oversight and responsibility for implementation.

In the absence of clear guidance on Ministerial responsibility for implementation of the Transport Standards, implementation is reliant on individual complaints to test compliance on a case-by-case basis. This remains far from satisfactory for operators, providers and users, and risks an increasing number of cases being dealt with through the legal system as the only avenue for testing compliance.

In addition, a difficulty for transport operators and providers in implementing the Transport Standards is the lack of specific guidance in relation to specific modes of transport. Implementation of the Transport Standards requires interpretation and the practical application of technical requirements to specific settings. In the absence of an agreed approach to compliance, the 2007 review described difficulties being experienced by operators and providers in understanding what constitutes compliance with the Transport Standards. The reviewer recommended the development of guidelines for specific modes of public transport.

Modal guidelines would provide specific direction and information on how to apply the Transport Standards to different modes of transport. This approach has the capacity to reduce uncertainty and provide authoritative advice on measures necessary to ensure compliance.

The 2007 Review Report noted several limitations on the current approach and recommended that the Accessible Public Transport Jurisdictional Committee (APTJC) undertake responsibility for new governance and accountability arrangements in partnership with the Accessible Public Transport National Advisory Committee (APTNAAC). It is not clear, however, whether the current

national arrangements for the co-ordination of transport reform under the SCOTI makes provision for the continuation of these committees. I note in this context that no reference is made to either committee on the SCOTI website. In any event it remains my view that the APTJC and the APTNAC are not the appropriate bodies for overseeing the scale of reform that is envisaged by the standards.

The Australian Government's response to the individual recommendations arising from the 2007 review of the Transport Standards clearly recognised the ATC (now SCOTI) as the key policy and regulatory advisory body in relation to the Transport Standards.

SCOTI must now ensure that issues surrounding the implementation of the Transport Standards are fully integrated into the national transport reform agenda.

SCOTI was established to bring together responsibilities for strategic planning with infrastructure and transport policy and regulation. This is intended to enable the development of integrated solutions to address infrastructure and transport planning and service delivery challenges.

I note in this context that the Intergovernmental Agreement for Regulatory and Operational Reform in Road, Rail and Intermodal Transport, which established the National Transport Commission (NTC), provides for the NTC to oversight operational reform of the transport industry, including driving nationally consistent regulatory and operational approaches to road, rail and intermodal transport, including matters referred to the Commission by SCOTI.³⁴

As a consequence SCOTI has recently appointed of a national heavy vehicle regulator in addition to the establishment of national regulatory bodies responsible for maritime and rail safety matters. Similarly, Austroads has a core role in contributing to the national transport reform agenda, including matters related to the access needs of individuals, communities and businesses.³⁵

I believe that a similar approach is warranted in relation to implementation of the Transport Standards. As with other areas where nationally consistent reform is required, consideration should be given to the development of an intergovernmental agreement or similar endorsed at COAG level to provide a clear articulation of the way in which the nationally consistent approach to reform is designed to operate and to establish a single national regulator to oversee the implementation of the Transport Standards.

The intergovernmental agreement should include clear guidelines on mechanisms to enable the Federal Disability Discrimination Commissioner and

³⁴ See clause 5 of the *Intergovernmental Agreement for Regulatory Reform in Road, Rail and Intermodal Transport* available at <http://www.scoti.gov.au/publications/files/NTC_IGA1.pdf>.

³⁵ See *Austroads Strategic Plan 2012-2016* available at <http://www.austroads.com.au/images/stories/Austroads_Strategic_Plan_FINAL.pdf>.

Australian Human Rights Commission to have standing under the new arrangements and to ensure that state and territory anti-discrimination agencies are consulted where appropriate.

Ensuring responsibility for the implementation of the Transport Standards is brought together under a single national umbrella would provide a more efficient and cost-effective approach to the development of integrated solutions to address the challenges arising from the implementation of the standards. It would also make a significant contribution toward promoting the priority area of social inclusion established under the National Transport Policy.

Implementation of the Transport Standards requires the following:

1. A co-ordinated national approach to implementation of the Transport Standards overseen by SCOTI.
2. The development of an intergovernmental agreement to progress implementation of the Transport Standards, establish implementation governance structures and establish a national reporting framework.
3. The establishment of working groups to develop nationally consistent guidelines (including technical standards) specific to each transport mode.
4. The identification of a work plan outlining key tasks and timelines to deliver on reform outcomes.
5. Clear responsibilities on transport regulators, where they play a pivotal role in the delivery of accessible public transport services.

It is acknowledged that there is likely to be resourcing implications arising from the implementation of a more robust compliance framework and that this may create difficulties in a climate of fiscal restraint. It is important to understand, however, that the failure to address the implementation of the Transport Standards in a fully co-ordinated manner has resulted in additional costs to operators/providers and relies on shifting the burden of compliance to those that can least afford it: users with disability.

A failure to ensure implementation of the Transport Standards also has significant implications in relation to achieving the objectives of the *National Disability Strategy* and fulfilling Australian obligations under the UN *Convention on the Rights of Persons with Disabilities*.

G. Hobart transport forum: stakeholder views

Taxis

- My experience with cab drivers in Hobart is exceptional. I am vision impaired and I haven't ever had any problems. The only thing that taxi drivers need to learn is to speak to me as otherwise I do not know what is happening.
- Taxi drivers ... have no sense of courtesy. They dropped off an older person who needed help getting in and out of the cab, but instead of helping her they remained sitting in the cab and did not help.
- Some companies operate a national call centre, so when you call for a taxi you get a call centre in Queensland. This means that local knowledge about customers with special requirements is lost.
- Taxi driver assisted an older lady passenger by getting her bags out of the boot, but then refused to help her get her bags inside.
- Drivers never get out of their taxis; it's as if they are paralysed. Particularly important to get help from driver for older people who might need help to get in and out of the taxi and to get bags or luggage in and out of the cabs. If a person gets hurt because of the failure by the driver, the driver should be liable. Security, safety and reliability.
- Before becoming a full-time carer, I used ordinary taxis and what was said about lack of help was true. Since becoming a full-time carer, we have used maxi-taxis and everything has been great. Different attitude, better training for dealing with people. There has to be more training of conventional taxi drivers.
- I tend to agree with the comments about the lack of help provided by taxi drivers. There are a lot of hidden disabilities and people who have hidden disabilities are the users of non-maxi taxis on the whole. It is very difficult to get drivers of conventional taxis to assist. Unless you said when booking you are a person with disability, you can't expect to get assistance. They treat you like everyone else in the community, when you may need assistance. This includes, for example, people with physical disability who can transfer from their wheelchair to a standard seat in a conventional taxi.
- Drove taxis for 32 years in Hobart. I was one of the first drivers on the road with a WAT licence. I had to go to TAFE to get qualified to drive that WAT. This does not that is not required any more. I am now a user of WATs and have a different experience. Drivers are not trained. Did book a taxi six months ago and we are still waiting. There are a couple of things the drivers of WATs are getting away with. There are restraints in those vehicles and there are drivers who are not using the restraints or are using them incorrectly, there are drivers who are not using seat belts. Drivers don't know people because of lack of radio rooms here in Tasmania. This means that there is not a central hub where people get to know the customers and

their particular needs. Where calls go through to a national network radio room in say Queensland, there is no local knowledge.

- Used to work as a driver for Australia Post, quite often taxi drivers would be quite nasty on the road pushing other people out of the way. Taxi drivers used to have a go at me when I was working for Australia Post.
- Comments on behalf of clients who couldn't get to the forum because of lack of accessible transport to get to forum:
 - Maxi taxi access: can't get them in anywhere near the same response time as an ordinary taxi. Most people who use maxi taxis know that they need to book sometimes days or even weeks in advance. They know they will have to plan to travel and hour or even two to get to the event/meeting on time. There are not enough maxi taxis to meet the needs of the community. They might contact more than one provider and get knocked back for the booking because there are simply none available.
 - Have had complaints about failure to use restraints in maxi taxis.
 - In some regions there is a lack of transport and no wheelchair accessible taxis (North West coast) and it is not because there isn't the need or the people to use them.
- I have been refused service by the driver of a conventional cab on the basis that 'we don't take wheelchairs in these cars'. This is a particular problem for people who can transfer from their wheelchair to a standard seat.
- Young mums are also affected by transport and there was a problem with access to ordinary taxis by mums with babies a while back that featured in the Mercury - they were refused access to an ordinary taxi at the rank in town.
- Driver training: people with guide dogs – we quite often get reports that the person will book the taxi and then wait outside for the taxi and the taxi drives up, sees the guide dog and drives off. Makes it very difficult for that person to report the taxi as they cannot access details.
- Timeliness: taxis operators seem to feel that it is okay to turn up 10, 15 or 30 minutes late and, as a result, the person with disability misses an important appointment. This is even when the taxi has been booked well in advance.
- Lots of people use mobile phones nowadays, so why can't taxi drivers or operators call the customer to let them know they are running late.
- Maxi taxis are not very accessible for older people. Best option is to move toward a standard design taxi that all can use. Unlikely to be a maxi taxis as currently designed.
- Why can't taxi companies purchase more station wagons to enable them to put wheelchairs in the back? No-one builds station wagons anymore. This is a problem for transporting wheelchairs, where the customer can transfer to standard seating. Lots of owners are now using a Prius, but you can't get a wheelchair into them.
- Is there any way of getting the government to take steps to actually monitor compliance by businesses that are required to comply with the standards?
- Responsibility should rest with the Department of Infrastructure Energy and Resources on a State basis as they are the transport regulator. Think it needs to be done at the local level.

- I'd agree, but I'd say that they shouldn't just have to monitor compliance but also surely they could 2 or 3 times a year do a spot audit by, for example, trying to order a WAT and seeing what the response time was, trying to access the service as if they were a person with disability.
- If a person cannot provide the service, withdraw the licence.
- Problem of the transport assistance scheme (TAS) vouchers being filled out by the drivers in situations where the customer does not have the ability to fill out the form. No way of knowing if the voucher is made out for the right amount.

Buses and coaches

- Why doesn't Metro accept the concession card before 9am in the morning and during peak afternoon period? Issue of people with subsidies not being allowed to travel on the subsidy during the peak time. As a consequence it costs a lot more for them to go to work or to an appointment in the early morning or afternoon.
- If 55% of buses on each route were accessible, it would mean that every second bus would be accessible. I have clients who go to work in wheelchairs and they find that even on the most commonly accessed bus routes not every second bus is accessible. So they can't rely on the public bus system to get to work on time unless they travel an hour or more earlier than they need to and that is not an option if they are reliant on a support worker to get to work on time. As a consequence they are forced into using WATs and this is unsustainable as the customers are often working on productivity based wage rather than even basic wages. They are very committed to getting to work, but the costs become prohibitive.
- People with disability who rely on accessible services do not find this is their experience. They have to pay carers to get them up and then pay for a WAT to get them to work because they cannot rely on an accessible service when they need it.
- No predictable timetabling that allows people with disability to plan their travel.
- Can't access the timetable if it is in print form or PDF. Where service information is provided online, information on timetabling etc has to be in accessible format.
- Reliance on internet based timetables excludes older people who do not have internet access.
- On non-urban routes, bus drivers have told nursing mothers that they are not allowed to breast feed their baby on the bus (have put the mother off the bus).
- Key issue for people who are blind or vision impaired is that when they get on the bus they have to ask the driver to inform them when they are at their stop. We hear stories from people who have had to rely on this process ending up having to do two or three circuits to get to their stop or get off the bus much further along the route. Audio announcement on trains is a problem across Australia. These issues need to be looked at for all forms of transport.
- As someone who is vision-impaired, it is important that bus drivers announce all stops. This informs blind and vision impaired traveller where they are on

the route. Otherwise I don't know how far along the route I am and how far I have to go to get to my stop.

- Need to look at how technology can assist with ensuring that bus stop announcements are made, possibly via implanting technology into bus stop poles that are triggered when the bus approaches.
- What happens when someone doesn't comply with the standards? Currently only a person affected by that failure can complain. But recent decision provides that failure to compliance with standards is not enough – non-compliance may provide evidence, but is not sufficient in and of itself to prove unlawful discrimination. Representative organisations don't have the capacity to take action.
- If people get on the bus, how many wheelchairs can you have? If there are 3 or 4 people they can't all travel at the same time. The minimum requirements in the Transport Standards say buses with more than 32 seats must have a minimum of 2 wheelchair accessible spaces. Sometimes that is not enough.
- Three different styles of accessible buses, not sure if they are trying to make up their minds about which buses they like. Been told the buses can't take scooters. I used to catch buses all the time from Claremont to the city. I got pulled off the bus one day and told I had to meet the CEO and was told I couldn't take my scooter on the bus because of safety standards. I transfer off it and they say I can't leave the scooter in the aisle. The driver does have to come down and assist (sometimes they get grumpy). The main reason is they can't provide one standard bus type which can accommodate all users. Some of the ramps do not allow for heavier wheelchairs. Every time they purchase a new style of bus there seems to be a problem. So now I have to ring up and see what type of bus is being used to see if I can get on it.
- If you can't get on the bus yourself independently, you have to travel with a carer.
- At least one long-distance coach company says that people who use wheelchairs must book earlier than other travellers. Is that a breach of the standards? Yes.
- Metro buses don't have any restraints to secure wheelchairs. People won't travel on the bus because of the risk of being thrown out of the wheelchair (seen it happen). Metro bus was sold for a school bus run and it can't be used because it doesn't meet the standard for school buses.
- Green card system is seen as a big positive for students with intellectual disability (great for people with poor numeracy skills).
- Seen an increase in the number of accessible buses.
- Some drivers do act like it is a hassle to get the ramp out for wheelchair access.
- Twitter service to note bus is delayed (although sometimes it is after the fact).
- Drivers take off too quickly before passengers have had a chance to be safe in their seats.
- Some people find it easier to understand stop numbers and would find it useful if that information was on the time table.
- Not enough opportunities for pro-active planning in relation to accessible buses. Better to just go to the bus stop and wait.

- Changes to timetables and services are not communicated particularly well. Use small text or complex information may make it difficult for some users to know what is happening.
- Attributes of a good bus driver: friendly, kind, good manners, safe and a good driver.

School Buses

- School buses: lack of accessibility. We have an inclusion policy for schools and schools buses do their very best and will assist children in wheelchairs that can transfer, but children who can't transfer have to rely on WATs and get only the TAS subsidy so families can be paying \$100 or more dollars a week to get their children to school.
- We have an inclusion policy for schools, but there is a big problem with lack of accessible transport to and from the school. Parents rely on maxi taxis and in many cases they are not eligible for any form of refund.

Community Transport and other Services

- Do the standards cover 'cars for community' program. Do community transport providers know about their obligations?
- Some of the cars for community were actually buses and the government should have ensured that community groups that purchased those vehicles were aware of their obligations and were funded to purchase accessible vehicles.
- Can the same questions be asked of Commonwealth government about contractual obligation for HACC service providers who are purchasing community transport vehicles?
- Mini buses: particularly those servicing the airport. I haven't found any that are accessible at all. Do they come under the standards? Because it means that people with disability can't travel to the airport using the regular bus service. They must rely on a WAT or friend to drive them. If they drive themselves, they have to pay for parking for the period of their absence from the State.
- At the airport, you used to have half an hour parking if you needed assistance to get your baggage into and out of the airport. You can't do that now.

Bus stops

- Bus stops near retirement and aged care homes are not sufficient. Often they will have a seat on one side of the street but not on the other. There is a need to ensure safe pedestrian access to bus stops.
- The number of bus stops in outer-urban areas has diminished. Many outer areas now cut out. Services have gone down in this respect.
- Lots of clients have bus stops that are not accessible in any way and so even if there is an accessible bus, they can't use it. In the Clarence area, for example, there are some accessible public housing units (fabulous new housing, nearly all residents are in wheelchairs). But the footpath from that facility to the nearest bus stop is blocked by two poles: one an Aurora power

pole and the other a light pole. Have had discussions with Council. They say they can't do anything about the power pole. Need to look at where the bus stops are. Consider the whole of the built environment, not just the immediate infrastructure. Public authorities need to cooperate to ensure that services are fully accessible.

- Publicly accessible toilets at bus transit areas are useless to a lot of people with disability in wheelchairs because they cannot lock and unlock the door. It is embarrassing, lack of privacy.

Airports and aircraft

- I can get on the planes fairly okay with the transport they provide. They load me first. However, two companies insist that people who use wheelchairs sit on the outside in the aisle seat. This means that there are two seats to my side which people have to climb over me. Same with disembarking, people have to climb over me to get off because people with wheelchairs get off last. I've been told it is the airline company's policy. I would like this to be challenged in some way. There needs to be flexibility in the way in which the policy is applied.
- Jetstar has a two-wheelchair policy. Is there anything that can be done about this? Jetstar case decision was that to change policy would amount to unjustifiable hardship. Qantas closed parts of their airline to set Jetstar up – why are they allowed to go backwards?
- Re Jetstar: for those who can transfer, can Jetstar prevent you from carrying your wheelchair as baggage in a situation where there are three or more persons wishing to travel? This could enable everyone to travel together. Is it possible to have flexibility in the policy?

Ferries

- Not all ferries operating in Hobart provide seating for older people or people with disability

Other issues

- Big issue in Tasmania is the lack of accessible transport outside of the major centres
- Who is monitoring compliance, who is the policeman?
- What about all the areas where there is no public transport?
- Tasmania needs a passenger rail system.

H.Launceston forum: stakeholder views

Taxis

- Taxis don't all have the tactile number identification tags. Generally that is only in braille where it does occur. Not in every taxi and not across Tasmania. Tasmania unique in terms of braille literacy as there is no braille training for people who lose their vision after they finish their schooling.
- Grandma needs help with conventional taxis because she uses a stick. But the drivers tell her to 'f### off'.
- My mum has arthritis and she needs help with her bags and the driver left her bags on the footpath and wouldn't help her with it.
- I know a driver who has been working in the taxi industry for 16 years and as far as I know he has never had to do any training about providing services.
- I think taxi drivers should be friendly, reliable and understandable.
- Need to include standards around training and support.
- Tried to book two WATs yesterday to bring students to this forum. The company called said that they could only supply one taxi not two. This shows that there are not enough WATs out there.
- Price difference between a standard taxi and a WAT in terms of fares.
- My grandma has just got out of hospital and had to get some groceries and she uses a stick and was feeling faint and the driver just sat there and didn't help at all.
- I was travelling in a taxi last week and when a short trip comes up on the screen the drivers don't want to take them because they are not worth as much.
- The reason taxi drivers don't take short fares is that they are usually working for someone else and only get 50% of the fare and have to pay for petrol, etc.
- I have a friend in the taxi called Dave and he is a really good bloke but he has [a] driver, number 49, and he sped off.
- I went in a taxi once and I have taxi vouchers and I said 'I can use these can't I' and the driver said no you can't. I said 'what are you talking about, I am sure that you can use them'
- Does the Commissioner get access to all complaints about taxi services?
- One time there was a [driver] on the taxi rank and I asked if he could take his [hat] off and he said no and he was very rude. Another time I got into a taxi and it was a Monday morning and the taxi was full of rubbish and was filthy.
- The voucher system is much for difficult for newer drivers to manage.
- Interstate travel is a minefield. If you are travelling with interstate vouchers, they are more likely to refuse (say 50% of the time and they often also refuse to call back to base).
- Smart Cards are on the way (already out for people who use WATs).
- Drivers insisting on two separate vouchers for two people picked up together but dropped off to different places.
- The taxi drivers think they own the road.

Buses and coaches

- Buses could have automatic ramps that go back into the bus, instead of a manual one that the bus driver has to get out of their seat to lift out.
- I've caught buses for many years and the timetable says the bus will be wheelchair accessible and then the bus that turns up doesn't turn out to be accessible and you have to wait another hour.
- Is there a subsidy for having to ring up the bus company every time to check that the bus is actually accessible? It is costly for me to do so.
- Even if there is a wheelchair accessible bus identified on the timetable (which there isn't on the Metro timetables) you can't call and talk to a person because they won't understand him because of his disability (advocate on behalf of participant with speech difficulty who requires wheelchair accessible transport). There was a proposal to have a text service to enable him to check and it was supposed to be piloted but has fallen by the wayside. He has made a complaint to Metro, but it hasn't been fixed. He didn't have this problem last year because the information was on the timetables, but they have taken the information off the timetables.
- Are small bus services, such as those travelling to Cradle Mountain, required to meet the same standards? Yes, so long as it is a public transport service.
- All of the buses provided by Manion's bus service are wheelchair accessible and the drivers are really helpful.
- Sometimes the timetables are too hard to read (too small or not in an accessible format).
- Drivers on the Metro buses don't help you. If you ask for help, the drivers just grumble.
- There needs to be information at bus stops that indicate whether the bus stop is for all people (including in accessible formats).
- Issues are not just around physical access to the bus. In Tassie people experiencing disability in rural and remote areas have it much worse than people in the cities because of the lack of access to services. Even community transport is not reliable enough. People make appointments for things in town and book transport and it gets cancelled and so they can't get to their appointment. And not all of the buses are accessible.
- Bus routes have changed to remove back-street routes that were more available for people with disability. People have often made decisions about where they buy their home based on the closeness to a bus stop. The route changes and this means that a person has to walk a lot further or use a WAT to get to the bus stop and taxis won't pick up short jobs, this means that people are excluded.
- People have reported to me that they are really reluctant to use Metro buses because even if the bus is an accessible bus, the manoeuvring space is too tight and it is really difficult to move the wheelchair around on board.
- A lot of the people report that they are often competing for space with mums with prams. (Standards make it clear that priority seating should be used.)
- Some have been told they are not allowed to get on because there are babies in prams and they have taken up the spaces and so they don't get to travel on the bus.

- The buses being on strike means that people are excluded from being able to use the buses. Last week there were three buses that went off because the union had a no-fare day and so drivers didn't want to have to deal with the hassle and they took sick days. It meant that I had to wait in the rain.
- Long distance coaches: how the hell do I get on a bus that has 5 or 6 steps up to get into the coach?
- A person can arrive at the bus terminal and get onto the next bus without having booked in advance, but a person in a wheelchair has to book in advance. What should be happening?
- I belong to Crossroads and we've got to book for weekends away. We use long-distance buses and when we get on and off people with mobility problems need a bit of help and that holds everyone up, but I am used to that.
- You can get on a bus and sometimes the bus driver will just be off—whoosh—and it might mean that you fall over because you haven't got to your seat.
- I know a story of two teachers who decided to investigate riding on a bus last week and it was the most nerve wracking experience of their lives. They couldn't understand the timetable even though they had a lesson the day before, they had money but there was no information about how much you had to pay, then there were steps up to the seats and the bus took off before they could sit down... it was like an amusement ride without the amusement.
- For wheelchairs there is no seatbelt or locking device on buses so I have to keep my hand on the hand brake.
- I think they should put the ramp down for people with prams because I've seen them struggling with their prams and stuff and the driver just sits there looking.
- In Melbourne, two people wouldn't get up for an old lady.

Bus stops

- As far as I know there is only one accessible bus stop in Invermay.
- There is also one in John Street.
- Who is responsible for making sure the bus stop is accessible: in some places it is the local Council, some places it is the State government and in other places it is the transport service operator.

Airports and aircraft

- In the past I've had troubles with the seats on the aircraft. I've sent a letter in advance to explain why I need a particular seat and then I've got to the airport and they've given the seats away and I've had to fight to get my seat and nearly had to get the manager down.
- No accessible toilets on airplanes.
- Not all the seats have armrests that go up.
- I was recently coming back from Perth on one of the bigger planes and there were two toilets in the middle of the plane. Even if the toilets had been accessible, there would not have been enough manoeuvring space for a wheelchair.
- The airlines make me transfer out of my wheelchair into a small wheelchair that I couldn't push myself in. I had to get to the airport early because they

said I had to and then I was left in this wheelchair that I couldn't self-propel and so I couldn't get to the toilet before the flight and then I couldn't use the toilets on the plane.

- Airlines don't have food that caters for the needs of people with food allergies.
- Toilet cubicles and aisles are getting smaller.

Ferries

- Only been on one (more than once). It was a good ride over except for the times it was rocky on the way over, but that's not really the ferries fault is it, that's the sea's fault isn't it.
- I've been on the Captain Cook cruise in Sydney and I found that they need more handrails, not just one bannister on the stairs (stairs are wider so you can't have handrails on both sides of you to help you keep steady).

Other comments

- At the hospital they have lifts that talk for blind people.
- Nothing in the standards about guide dogs or about service delivery
- What is a 'type of service' for the purposes of the compliance timetable
- Did a survey yesterday through Launceston, have 10 minute disability parking outside one place, 15 minutes outside another and disability loading for a two-hour period outside another place. Why?

I. Other input from people with disability

- Person reported planning an outing and checked for a suitable bus and time with the bus office (Tasmanian Coach Lines). She was informed of appropriate bus available. When she went to catch the bus she was told it was not wheelchair accessible.
- Person can get to Hobart from Taroona without a problem. To travel out of Hobart and return is not easily available with Metro or Tasmanian Coach Lines.
- There are very few bus services in the Ulverstone area, which means people with disability and older residents have to rely on private vehicles and/or expensive taxi to get around in the area for anything other than longer journeys to places like Burnie or Devonport.
- The only place where buses can be caught is in the centre of Ulverstone and buses do not service other parts of the area so anyone with disability must get taxi to and from the bus stop.
- The bus stop in Ulverstone is not accessible and people have to get over the kerb and gutter to get to the stop.
- There are few taxis in the Ulverstone area and only one accessible taxi servicing the whole area and they are a very expensive way to travel around.
- There is some Community Transport but most of this seems to be private cars and not accessible mini-buses.

Views from Tasmanian Polytechnic Work Pathways Program about Metro

What we like about Metro:

- Greencard is great. It makes it so much easier for us to pay for the bus.
- We like the wheelchair ramps, but some drivers will act like it's a hassle.

What we think Metro could do better:

- Some bus drivers drive off too quickly and we haven't sat down yet.
- We find it easy to use numbers, we want you to use more stop numbers on timetables or on the website.
- More accessible busses and more information on timetables so we can plan trips better. The radio room doesn't always know what buses we can catch.
- Sometimes things change and we don't know about it – for example, there was no notice at the Campbell Street bus-stop saying that the Rosny Park bus mall had changed.

What we think makes a good bus driver:

- Friendly
- Kind

- Nice
- Patient
- Good manners
- Safe driver

Questions:

1. Once a bus driver said something about the weight of wheelchairs and that only certain buses could take heavier chairs. What are the guidelines for this?
2. Does the radio station always have to stay the same? Could we ask a bus driver to change the station?
3. What exactly is happening to the Rosny Park bus mall?
4. Why don't some buses stop when we signal the driver?

J. Complaints and enquiries received by the Anti-Discrimination Commissioner

Case 1

A person contacting the ADC alleged discrimination by an airline company.

The person alleged that discrimination on the basis of disability (a mobility impairment) by virtue of the policy of the respondent to not permit on any flight more than two people who require mobility assistance for boarding and disembarking. The person with disability sought to fly with the airline from Hobart to Melbourne on a Saturday, returning on the Sunday. He was travelling with two friends, both of whom also use lightweight, manual wheelchairs. The airline required one of the three to travel on a separate flight. As a result, the person with disability incurred additional travel costs and he and his friends were not able to spend as much time together in Melbourne as they wished.

Case 2

A person contacting the ADC alleged discrimination by airline companies.

The person alleged discrimination on the basis of disability (quadriplegia). On a trip the person with disability travelled with two accompanying carers to northern Australia. The journey involved flights with two airlines, booked through one of the airlines. The person with disability is unable to independent transfer from their wheelchair to the aircraft seat and vice versa.

The airline through which the travel was booked utilised a lifting system that enabled the person with disability to be safely transferred to and from wheelchair to aircraft seat. This enabled the person with disability to embark and disembark the airline feeling safe and causing as little disruption to the person with disability and to other passengers waiting to embark.

The other airline did not utilise such a system and, as a result, the two carers were required to perform the transfers without assistance, placing the person with disability and the carers at significant risk of injury.

During one leg of the journey, no priority loading of the person's wheelchair was given. This meant that the person with disability was required to sit in the narrow 'aisle' wheelchair supplied by the airline for three hours, causing severe back pain and increased risk of injury.

Case 3

A person contacting the ADC alleged discrimination by a bus operator.

The person alleged discrimination on the basis of disability (cerebral palsy with mobility impairment). The person is not able to drive a car and relies on public transport to get around. He lives in an inner-urban suburb of a Tasmanian city and relies on buses to get to the central city and to other parts of the city.

The company that operates the public bus service has timetables that show when the buses on the route are travelling through his suburb. The company has buses that are designed to be accessible for people who use wheelchairs, but the timetable does not show when those buses will be in use on the route.

The company used to publish timetables that showed this, but stopped doing this. Instead, the current timetable has a box about 'Wheelchair Accessible Services' that states, 'A number of bus services are operated by wheelchair accessible buses. Please call to confirm whether an accessible bus is being used on a particular service'.

This means that the person with disability has to call the number to find out when a bus that he can catch will be running. People who don't use wheelchairs don't have to call to find out when the buses are running. They can just look at the timetable.

Case 4

A person contacting the ADC alleged discrimination by a taxi operator.

The person alleged discrimination on the basis of disability (vision impairment and use of a guide dog).

The person with disability alleged a booking was made for a taxi and when the taxi arrived the driver refused to allow the guide dog into the vehicle. Even after being told over the radio by the operator that he was required to carry the guide dog, the driver continued to refuse and was rude and aggressive. Eventually, the driver allowed the person with disability and companion into the taxi with the guide dog but refused to give his name, license number or any identifying details.

Case 5

A person contacting the ADC alleged discrimination in relation to school bus services.

The person alleged discrimination on the basis of disability (cerebral palsy with mobility impairment).

The contact was made by a parent on behalf of their child. The child attends a regional school and is unable to access the available school bus to travel to and from school, to and from after-school programs and on school excursions as the school buses that the school contracts have no wheelchair accessibility.

As a result, the parents have to be available for all of these transport needs and are unable to engage in full-time work.

Case 6

A person contacting the ADC alleged discrimination in relation to airport security services.

The person alleged discrimination on the basis of disability (use of a prosthetic limb).

The person with disability was at an airport and was asked to remove their prosthetic leg by security screening staff and was then patted down. On contacting the airport and the airline, the person with disability was advised that this wasn't the correct procedure and that there was no requirement to remove a prosthesis. The person with disability felt humiliated and targeted and was spoken to rudely and it was intimated that the staff were searching for drugs.

Case 7

A person contacting the ADC alleged discrimination in relation to interstate travel.

The person alleged discrimination on the basis of disability (resulting in the need to travel with a companion).

The contact was made by a person on behalf of their adult child who has disability. The person with disability has a national companion card but none of the airlines participate in the National Companion Card Scheme, nor does the Bass Strait ferry service operator. This means that the person with disability is forced to the travel costs of the accompanying carer on top of the cost of wages for that carer.

Case 8

A person contacting the ADC alleged discrimination in relation to rental car services.

The person alleged discrimination on the basis of disability (physical disability).

The person with disability wanted to hire a car in Tasmania and needed a car with hand controls. The person had contacted a number of rental car companies and was told that they had all got rid of their cars with hand controls. This meant that the person with disability could not enjoy the independent mobility afforded through renting a vehicle and travelling wherever and whenever desired.

Case 9

A person contacted the ADC alleged discrimination in relation to airline travel.

The person alleged discrimination on the basis of disability (chemical sensitivity).

The person with disability had booked a flight with an airline. On boarding the plane, the person noticed that the interior was new and was concerned that this would cause a reaction to toxins. The person with disability advised the flight attendant and got off the plane, arranging another flight a few days later. When the person boarded the plane the next time it was the same pilot and crew (but different plane) and the person was told that they could not stay on the plane.

Case10

A person contacted the ADC alleged discrimination in relation to airline travel.

The person alleged discrimination on the basis of disability (severe allergy).

The contact was made by a parent on behalf of their child. The parents had booked a flight for them and their two children. The parent told the airline at the time of booking that one child had an allergy to peanuts and provided a doctor's report certifying that the child was safe to fly. The airline accepted the booking and then later contacted the parent to advise that it would not allow the child to fly at all. The parent contacted another airline and they accepted the booking without issue.

K. Appendix A – Compliance timetabling for elements relevant to bus and coach public transport services

Part	Elements*	% compliance	Date	Who	Sch 1 Clause
2	Access paths – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Access paths other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Access paths – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Access paths other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Access paths – buses	80%	31/12/2017	Operators & Providers	3.3
	Access paths – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Access paths other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Access paths	100%	31/12/2022	Operators & Providers	4.2
3	Manoeuvring areas – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Manoeuvring areas other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Manoeuvring areas – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Manoeuvring areas other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Manoeuvring areas – buses	80%	31/12/2017	Operators & Providers	3.3
	Manoeuvring areas – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Manoeuvring areas other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Manoeuvring areas	100%	31/12/2022	Operators & Providers	4.2
4	Passing areas – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Passing areas other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Passing areas – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Passing areas other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Passing areas – buses	80%	31/12/2017	Operators & Providers	3.3
	Passing areas – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Passing areas other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Passing areas	100%	31/12/2022	Operators & Providers	4.2
5	Resting points other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.4
	Resting points other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.4
	Resting points – buses	80%	31/12/2017	Operators & Providers	3.3
	Resting points other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.1
	Resting points	100%	31/12/2022	Operators & Providers	4.1

Part	Elements*	% compliance	Date	Who	Sch 1 Clause
6	Ramps - bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Ramps other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Ramps - bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Ramps other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Ramps – buses	80%	31/12/2017	Operators & Providers	3.3
	Ramps – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Ramps other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Ramps	100%	31/12/2022	Operators & Providers	4.2
7	Waiting areas – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Waiting areas – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Waiting areas – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Waiting areas other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Waiting areas	100%	31/12/2022	Operators & Providers	4.1
8	Boarding – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Boarding other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.4
	Boarding – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Boarding other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.4
	Boarding – buses	80%	31/12/2017	Operators & Providers	3.3
	Boarding – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Boarding other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.1
	Boarding	100%	31/12/2022	Operators & Providers	4.1
9	Allocated space – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Allocated space other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.4
	Allocated space – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Allocated space other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.4
	Allocated space – buses	80%	31/12/2017	Operators & Providers	3.3
	Allocated space – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Allocated space other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.1
	Allocated space	100%	31/12/2022	Operators & Providers	4.1
10	Surfaces – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Surfaces – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Surfaces – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Surfaces other than bus stop infrastructure	100%	31/12/2012	Operators & Providers	2.2
	Surfaces	100%	31/12/2022	Operators & Providers	4.2

Part	Elements*	% compliance	Date	Who	Sch 1 Clause
11	Handrails and grabrails – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Handrails and grabrails – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Handrails and grabrails – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Handrails and grabrails other than bus stop infrastructure	100%	31/12/2012	Operators & Providers	2.2
	Handrails and grabrails	100%	31/12/2022	Operators & Providers	4.2
12	Doorways and doors other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Doorways and doors other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Doorways and doors – buses	80%	31/12/2017	Operators & Providers	3.3
	Doorways and doors other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Doorways and doors	100%	31/12/2022	Operators & Providers	4.2
13	Lifts other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Lifts other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Lifts – buses	80%	31/12/2017	Operators & Providers	3.3
	Lifts other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Lifts	100%	31/12/2022	Operators & Providers	4.2
14	Stairs – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Stairs other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Stairs – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Stairs other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Stairs – buses	80%	31/12/2017	Operators & Providers	3.3
	Stairs – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Stairs other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Stairs	100%	31/12/2022	Operators & Providers	4.2
15	Toilets other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Toilets other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Toilets – buses	80%	31/12/2017	Operators & Providers	3.3
	Toilets other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Toilets	100%	31/12/2022	Operators & Providers	4.2
16	Symbols – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Symbols – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Symbols – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Symbols other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.2
	Symbols	100%	31/12/2022	Operators & Providers	4.2

Part	Elements*	% compliance	Date	Who	Sch 1 Clause
17	Signs – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Signs – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Signs – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Signs other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.2
	Signs	100%	31/12/2022	Operators & Providers	4.2
18	Tactile ground surface indicators – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Tactile ground surface indicators other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Tactile ground surface indicators – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Tactile ground surface indicators other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Tactile ground surface indicators – buses	80%	31/12/2017	Operators & Providers	3.3
	Tactile ground surface indicators – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Tactile ground surface indicators other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Tactile ground surface indicators	100%	31/12/2022	Operators & Providers	4.2
19	Alarms other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.2
	Alarms	100%	31/12/2022	Operators & Providers	4.2
20	Lighting – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Lighting – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Lighting – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Lighting other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.2
	Lighting	100%	31/12/2022	Operators & Providers	4.2
21	Controls other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.5
	Controls other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.5
	Controls – buses	80%	31/12/2017	Operators & Providers	3.3
	Controls other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.2
	Controls	100%	31/12/2022	Operators & Providers	4.2
22	Furniture and fittings other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Furniture and fittings	100%	31/12/2022	Operators & Providers	4.1
23	Street furniture – bus stop infrastructure	25%	31/12/2007	Providers	1.6
	Street furniture other than bus stop infrastructure	25%	31/12/2007	Operators & Providers	1.4
	Street furniture – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Street furniture other than bus stop infrastructure	55%	31/12/2012	Operators & Providers	2.4
	Street furniture – buses	80%	31/12/2017	Operators & Providers	3.3
	Street furniture – bus stop infrastructure	90%	31/12/2017	Providers	3.4
	Street furniture other than buses and bus stop infrastructure	90%	31/12/2017	Operators & Providers	3.1
	Street furniture	100%	31/12/2022	Operators & Providers	4.1

Part	Elements*	% compliance	Date	Who	Sch 1 Clause
24	Gateways other than bus stop infrastructure	100%	31/12/2012	Operators & Providers	2.1
	Gateways	100%	31/12/2022	Operators & Providers	4.1
25	Payment of fares				
	Vending machines other than bus stop infrastructure	100%	31/12/2012	Operators & Providers	2.1
26	Payment of fares	100%	31/12/2022	Operators & Providers	4.1
	Hearing augmentation other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.2
27	Hearing augmentation	100%	31/12/2022	Operators & Providers	4.2
	Information – bus stop infrastructure	25%	31/12/2007	Providers	1.6
28	Information – bus stop infrastructure	55%	31/12/2012	Providers	2.6
	Information – bus stop infrastructure	90%	31/12/2017	Providers	3.4
29	Information other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Information	100%	31/12/2022	Operators & Providers	4.1
30	Booked services other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Booked services	100%	31/12/2022	Operators & Providers	4.1
31	Food and drink services other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Food and drink services	100%	31/12/2022	Operators & Providers	4.1
32	Belongings other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Belongings	100%	31/12/2022	Operators & Providers	4.1
33	Priority other than bus stop infrastructure	100%	31/12/2007	Operators & Providers	1.1
	Priority	100%	31/12/2022	Operators & Providers	4.1

* Some of the timetable requirements do not apply to premises to which the *Disability (Access to Premises – Buildings) Standards 2010* (Cth)