

The Allen Consulting Group

Review of the Disability Standards for Accessible Public Transport

Final Report

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Report to the Minister for Infrastructure, Transport, Regional Development and Local Government
and the Attorney-General

The Allen Consulting Group

The Allen Consulting Group Pty Ltd
ACN 007 061 930, ABN 52 007 061 930

Melbourne

Level 9, 60 Collins St
Melbourne VIC 3000
Telephone: (61-3) 8650 6000
Facsimile: (61-3) 9654 6363

Sydney

Level 12, 210 George St
Sydney NSW 2000
Telephone: (61-2) 9247 2466
Facsimile: (61-2) 9247 2455

Canberra

Empire Chambers, Level 2, 1-13 University Ave
Canberra ACT 2600
GPO Box 418, Canberra ACT 2601
Telephone: (61-2) 6204 6500
Facsimile: (61-2) 6230 0149

Online

Email: info@allenconsult.com.au
Website: www.allenconsult.com.au

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Acronyms

ACG	Allen Consulting Group
ACT	Australian Capital Territory
ADR	Australian Design Rules
AGD	Australian Government Attorney-General's Department
AHRC	Australian Human Rights Commission (formerly the Human Rights and Equal Opportunity Commission)
APTJC	Accessible Passenger Transport Jurisdictional Committee
APTAC	Accessible Passenger Transport National Advisory Committee
ARA	Australasian Rail Association
CASA	Civil Aviation Safety Authority
CBD	Central Business District
DDA	<i>Disability Discrimination Act 1992</i>
DOI	Victorian Government Department of Infrastructure
DOTARS	Australian Government Department of Transport and Regional Services
DITRDG	Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (the new name of the Australian Government Department of Transport and Regional Services following the Federal Election in November 2007)
HREOC	Human Rights and Equal Opportunity Commission (now the AHRC)
NSW	New South Wales
NT	Northern Territory
OHS	Occupational Health and Safety
PWD	People with Disability
QLD	Queensland
RIS	Regulation Impact Statement
SA	South Australia
SMS	Short Messaging Service
TAS	Tasmania
TGSI	Tactile Ground Surface Indicator
TTY	Teletypewriter
VIC	Victoria
WA	Western Australia
WAT	Wheelchair Accessible Taxi

Contents

<i>Executive Summary</i>	8
Assessment of effectiveness and efficiency of the Transport Standards	8
Key issues and problems to be addressed	13
Full set of Review Recommendations	21
Chapter 1	24
<i>Background and key concepts</i>	24
1.1 The objective of the Disability Standards for Accessible Public Transport	24
1.2 This review	25
1.3 Key concepts for this review	26
1.4 Expected impacts of the Transport Standards	31
1.5 Framework for analysis	33
1.6 Report structure and response to the terms of reference	35
Chapter 2	40
<i>Accessibility of trains and trams</i>	40
2.1 Introduction	40
2.2 Requirements under the Transport Standards	41
2.3 Accessibility of train travel	42
2.4 Accessibility of tram travel	50
2.5 Overall achievement of accessibility to date	53
Chapter 3	55
<i>Accessibility of taxis</i>	55
3.1 Introduction	55
3.2 Requirements under the Transport Standards	56
3.3 Measures of taxi accessibility	57
3.4 Accessibility of taxi infrastructure	63
3.5 Regional trends in accessibility	63
3.6 Potential impact on patronage	64
3.7 Overall achievement of accessibility to date	66
Chapter 4	67
<i>Accessibility of buses and coaches</i>	67
4.1 Introduction	67
4.2 Requirements under the Transport Standards	68
4.3 Accessibility of conveyance — bus services	68

4.4	Accessibility of infrastructure — bus services	71
4.5	Accessibility of conveyance — coach services	74
4.6	Accessibility of infrastructure — coach services	75
4.7	Potential impact on patronage	75
4.8	Overall achievement of accessibility to date	75
Chapter 5		77
<i>Accessibility of air travel and ferries</i>		77
5.1	Introduction	77
5.2	Requirements under the Transport Standards — air travel	78
5.3	Accessibility of air travel	79
5.4	Requirements under the Transport Standards — ferry travel	89
5.5	Accessibility of ferries	89
5.6	Overall achievement of accessibility to date	91
Chapter 6		94
<i>Effectiveness in removing discrimination for people with disability</i>		94
6.1	Introduction	94
6.2	Accessibility achieved since the introduction of the Transport Standards	95
6.3	The impact of the Transport Standards in removing discrimination	96
6.4	Experience of people with disability in using public transport	98
6.5	Confidence in public transport accessibility	100
6.6	Scope and value of current compliance information	102
6.7	Conclusions	106
Chapter 7		107
<i>Effectiveness of the regulatory approach</i>		107
7.1	Why regulate services for people with disability?	107
7.2	Performance-based versus prescriptive regulations	108
7.3	The current regulatory approach used in the Transport Standards	111
7.4	Alternatives to a regulatory approach	120
7.5	Conclusions	124
Chapter 8		126
<i>Scope of the Transport Standards</i>		126
8.1	Introduction	126
8.2	Exclusions from the Transport Standards	127
8.3	Temporary exemptions granted by the AHRC	136
8.4	Claims of unjustifiable hardship under the Transport Standards	138
8.5	Use of equivalent access provisions	142
8.6	External factors that impact on accessibility	145
8.7	Conclusions	148

Chapter 9	150
<i>Efficiency of implementation of the Transport Standards</i>	<i>150</i>
9.1 Introduction	150
9.2 Previous estimates of compliance costs	152
9.3 Reported compliance costs since the introduction of the Transport Standards	154
9.4 Processes for informing providers on their Transport Standards obligations	157
9.5 Implementation of the compliance timetable	161
9.6 Compatibility with other regulatory requirements	162
9.7 Supporting providers in operating under the Transport Standards	166
9.8 Implementation issues for people with disability	167
9.9 Conclusions	171
Chapter 10	172
<i>Efficiency of administrative processes</i>	<i>172</i>
10.1 The AHRC complaints process	172
10.2 The effectiveness of enforcement via a complaints based system	176
10.3 Overlap of complaint avenues	180
10.4 Reporting processes	181
10.5 Consultative mechanisms	182
10.6 Conclusions	185
Chapter 11	187
<i>Assessment of regulatory and policy options for change</i>	<i>187</i>
11.1 Overview of key findings	187
11.2 Systemic issues	190
11.3 Summary of preferred options addressing systemic issues	214
11.4 Mode specific issues	215
11.5 Summary of preferred options addressing mode specific issues	226
Chapter 12	227
<i>Recommendations</i>	<i>227</i>
Appendix A	229
<i>Review Terms of Reference</i>	<i>229</i>
Appendix B	232
<i>Review method</i>	<i>232</i>
B.1 Stage one: confirming the review terms of reference and literature review	232
B.2 Stage two: Informing stakeholders	233
B.3 Stage three: gathering information from stakeholders	234
B.4 Stage four: develop initial findings and recommendations	237
B.5 Stage five: develop Final Report	238

Appendix C	239
<i>Stakeholder consultation</i>	239
C.1 Newspaper advertisements	239
C.2 Written submissions	240
C.3 Public hearing locations and participants	243
C.4 Individual meetings	257
C.5 Submissions on the Draft Report received	257
Appendix D	259
<i>Applicability of the Transport Standards by mode of transport</i>	259
D.1 Trains	259
D.2 Trams	264
D.3 Taxis	269
D.4 Buses and coaches	274
D.5 Air travel	280
D.6 Ferries	285
Appendix E	290
<i>Assessment of remaining issues for each Part of the Transport Standards</i>	290
Part 1: Preliminary	290
Part 2: Access Paths	291
Part 3: Manoeuvring Areas	291
Part 4: Passing Areas	292
Part 5: Resting Points	292
Part 6: Ramps	292
Part 7: Waiting Areas	293
Part 8: Boarding	293
Part 9: Allocated space	293
Part 10: Surfaces	294
Part 11: Handrails and Grabrails	294
Part 12: Doorways and doors	294
Part 13: Lifts	294
Part 14: Stairs	295
Part 15: Toilets	295
Part 16: Symbols	295
Part 17: Signs	295
Part 18: Tactile ground surface indicators	296
Part 19: Alarms	297
Part 20: Lighting	297
Part 21: Controls	297
Part 22: Furniture and fitments	297
Part 23: Street furniture	298
Part 24: Gateways	298

Part 25: Payment of fares	298
Part 26: Hearing augmentation – listening systems	298
Part 27: Information	299
Part 28: Booked services	299
Part 29: Food and drink services	299
Part 30: Belongings	300
Part 31: Priority	300
Appendix F	301
<i>Temporary exemptions</i>	<i>301</i>
Appendix G	304
<i>Regulatory impact assessment of key issues — systemic issues</i>	<i>304</i>
Issue 1: Availability of information on compliance with the Transport Standards	304
Issue 2: Availability of information on patronage of public transport for people with disability	307
Issues 3 and 4: Accuracy and transparency of technical standards within the Transport Standards	308
Issue 5: The appropriateness of the Transport Standards to address mode specific issues	314
Issue 6: Information on compliant mobility aids	320
Issue 7: Information on best practice and innovative applications	326
Issue 8: Local government resource constraints for upgrading public transport infrastructure	327
Issue 9: Reliance on complaints-based enforcement	328
Issue 10: Effectiveness of governance supporting implementation of the Transport Standards	332
Appendix H	334
<i>Regulatory impact assessment of key issues — mode specific issues</i>	<i>334</i>
Appendix I	349
<i>References</i>	<i>349</i>

Executive Summary

The Disability Standards for Accessible Public Transport (Transport Standards) were the first Disability Standards to be introduced in Australia when they were passed into law on 23 October 2002. The creation of the Transport Standards recognised that access to public transport is vital for people with disability, their families and their carers to fully participate in community life. The intent of the Transport Standards is to provide greater certainty and clarity around obligations under the *Disability Discrimination Act 1992* (the DDA) (as they relate to the provision of public transport without discrimination against people with disability).

The Transport Standards (Part 34) require the Minister for Infrastructure, Transport, Regional Development and Local Government, in consultation with the Commonwealth Attorney-General, to review the efficiency and effectiveness of the standards within five years of their coming into effect. Allen Consulting Group (ACG) was engaged to conduct this first review of the Transport Standards since their introduction. This report presents the review findings and recommendations, and follows consultations with stakeholders and the release of the Draft Report.

Assessment of effectiveness and efficiency of the Transport Standards

This report provides an assessment of the effectiveness and efficiency of the Transport Standards, in their first five years of implementation, across the following aspects.

Effectiveness in removing discrimination for people with disability

The Transport Standards have significantly changed the way that governments, public transport operators and providers think about access to public transport for people with disability. Prior to the introduction of the Transport Standards, while obligations existed in the DDA, there was no focused effort to remove discrimination in any systematic way (though some improvements had been made). The Transport Standards have been effective in bringing forward investment in accessible infrastructure and conveyances, and requiring public transport operators and providers, both public and private, to plan and implement upgrades to assets for which they have a responsibility.

While a quantitative estimate of progress against five year milestones can not be made, this review reports evidence of increased investment in accessible public transport and growth in accessible services and infrastructure. This has facilitated the removal of discrimination, which is the ultimate objective of the Transport Standards by the end of their 30 year implementation timetable.

These observations notwithstanding, many stakeholders expressed their frustration and disappointment with the implementation of the Transport Standards in the first five years. At this stage in their implementation, the progress to remove discrimination has been characterised by:

- uneven improvements in accessibility, where particular modes (such as air travel) have not made the same progress as other modes, and there is a significant difference in experience between urban and rural regions;

- a continued lack of ‘whole of journey’ accessibility. This is due, in most part, to the agreed policy of staged compliance targets within the Transport Standards; and
- a continued lack of confidence in the reliability of accessible services. For buses and taxis, people with disability are also concerned about the safety of travelling onboard while sitting in their mobility aids. These concerns are limiting patronage of accessible services.

However, much of the criticism of slow progress arises because the five year targets in the Transport Standards do not seek to provide whole of journey accessibility (in most instances).

Further, measures of accessibility are hampered by a lack of baseline data from the commencement of the Transport Standards. Also, there is little available data on public transport patronage by people with disability, which could provide some insight into actual accessibility of public transport for people with disability.

Effectiveness of the regulatory approach

The DDA, and supporting Standards, are the regulatory means by which governments seek to remove, as far as practicable, discrimination against people with disability. The rationale for government intervention, through regulation, is based on the premise of broader social benefits through greater access to services for people with disability, and the goals of social inclusion and equity.

In seeking to meet these objectives, the regulatory approach plays an important role. That is, the extent to which requirements are based on prescriptive or performance-based standards. The Transport Standards are predominantly prescriptive regulation, with a small number of performance-based measures. In comments to this review, stakeholders highlighted areas where they considered that:

- the level of prescription within the Transport Standards is appropriate, but where the guidance provided is inaccurate; and
- the level of prescription within the Transport Standards is inappropriate — most commonly where it attempts to prescribe the same standards across different modes of transport.

Conversely, there are other aspects of the Transport Standards that stakeholders considered as not being prescriptive enough — where performance-based requirements have been used, but more guidance on requirements would be beneficial.

A further issue of regulatory style is the use of Australian Standards references in the Transport Standards. This approach makes interpretation of the requirements in the Transport Standards difficult for both providers and people with disability. In addition, many of the Australian Standards referenced do not translate well for transport conveyances or infrastructure.

Scope of the Transport Standards

The scope of the Transport Standards determines the extent to which they have an influence, and thus is a determinant of their effectiveness. Exclusions, exemptions, claims of unjustifiable hardship and the use of equivalent access provisions all influence the extent to which particular sectors, modes of transport or components of public transport systems are captured by the Transport Standards.

Exclusions from the Transport Standards

Exclusions from the Transport Standards were granted, primarily, to transport providers whose service are charter services (such as limousines and small charter boat services) or where there are reasonable technical or logistical concerns (such as small aircraft with less than 30 seats which are excluded from physical access requirements in the Transport Standards).

The majority of current exclusions in the Transport Standards are supported by stakeholders. Two exceptions to this observation are the exclusion of dedicated bus services and community transport from physical access requirements of the Transport Standards.

Key problems identified with these exclusions are:

- the rationale for the exclusion of dedicated bus services (from physical access requirements of the Transport Standards) is not based on any discernable difference between the nature of school bus services and route bus services, but the exclusion places cost pressures on education authorities and parents, and also has broader implications for communities, particularly in rural and regional areas; and
- the exclusion of community bus services does not recognise the importance of such services for people with disability.

In both instances, the basis of the exclusions need to be tested against the potential costs and benefits of removing the exclusions. Options for addressing these issues are provided in recommendations made by this review.

Use of unjustifiable hardship and equivalent access provisions

The Transport Standards include a provision for public transport operators and providers to claim unjustifiable hardship, in cases where the costs associated with removing discrimination may be more than some operators and providers are able to fund without extreme circumstances.

The claim of unjustifiable hardship can only be used as a defence against non-compliance once a complaint is brought against an operator or provider. Once the complaint is made, the determination of whether the unjustifiable hardship defence is legitimate or not will be determined by the Federal Court or Federal Magistrates Court, though the Australian Human Rights Commission can advise on the validity of a claim during conciliation.

Current utilisation of unjustifiable hardship provisions is uncertain because there is no registration or other means to lodge a claim, other than in the process of a legal hearing. It is likely that there are providers who currently believe that they could legitimately make a claim of unjustifiable hardship, but have not, as yet, been required to make one. The unjustifiable hardship provision, while being an important and intended design feature of the framework, does not provide certainty for providers ahead of any complaint being made against them. Providers report that they are reluctant to rely on a claim of unjustifiable hardship because of the uncertainties about whether a claim will be accepted.

A further mechanism for providers to meet obligations under the Transport Standards is the equivalent access provision. Equivalent access is where accessibility is provided by means other than those specified in the Transport Standards, though with the same outcome of removing discrimination for people with disability.

This review found that some providers are utilising equivalence access provisions, such as through staff assistance or substitution of one type of service for another accessible one. Providers did, however, comment that there is currently a disincentive to use equivalent access provisions because there is currently no mechanism to confirm that these provisions are compliant with the Transport Standards.

Effectiveness of implementation of the Transport Standards

Public transport operators and providers have found the first five years of implementing the Transport Standards challenging. This experience has highlighted several gaps in the information and support processes for the Transport Standards. There is currently no authoritative source of information to advise providers on how to deal with ambiguity, conflicts with other regulations or uncertainty in their obligations (key examples being the interaction between air transport safety, Australian Design Rules and Occupational Health and Safety requirements).

In this environment, where obligations are not clear, providers are either making their own interpretations, setting their own policies, or seeking guidance from State and Territory governments. In a small number of cases, clarification is being sought through the Federal Court or Federal Magistrates Court. The result is an uneven implementation of requirements in the Transport Standards, which impacts on the effectiveness. People with disability, particularly those with vision impairment, reported problems with the consistency of implementation of the Transport Standards. This was particularly problematic in relation to the use of Tactile Ground Surface Indicators (TGSIs), where consistency is very important in ensuring the safety of people with disability when they are using public transport.

Implementation of the Transport Standards is also impacted by costs for public transport operators and providers. This review considered areas where costs in the first five years were higher than estimated by the cost-benefit analysis of the Transport Standards conducted prior to their implementation. The review also assessed the distribution of these costs. The review found that costs have the greatest impact on capacity for implementation in relation to:

- bus stop upgrades required to be completed by local governments; and
- the provision of services in rural and regional areas, particularly in relation to bus services.

Efficiency of administration of the Transport Standards

Compliance

Enforcement of requirements in the Transport Standards relies on complaints by people with disability (with no direct monitoring of compliance by government). Complaints can be made to the Australian Human Rights Commission (AHRC), and managed through the AHRC conciliation process. Where the AHRC conciliation does not resolve the issue, individuals can progress their case through the Federal Court, or terminate their complaint. In the view of some stakeholders, this approach places unreasonable cost and responsibility on people with disability to be able to identify non-compliance, and incur the time and financial costs to obtain a resolution. Disability representative organisations are concerned that the current system discourages complaints and thus does not drive compliance with the Transport Standards. In this regard, three fundamental issues raised were:

- barriers to making a complaint, including information barriers and cost barriers;
- the degree to which complaints are progressed and suitable resolutions are achieved, particularly if resolution of the complaint requires it to be progressed to the Federal Court or Federal Magistrates Court; and
- doubts over the ability of the system to drive system-wide compliance.

However, it is important to note that this approach to compliance is a design feature of the DDA itself, rather than being specific to the Transport Standards.

Accountability and reporting

Reporting on accessibility and compliance against milestones in the Transport Standards is conducted by most State and Territory governments, though not in a uniform framework.

The consultative mechanisms for the Transport Standards – ATPNAC and APTJC – have limited scope in reviewing and progressing changes to the Transport Standards. Stakeholders currently have low confidence in the ability of ATPNAC and APTJC to address problems with the Transport Standards or provide a mechanism to deliver change.

Key issues and problems to be addressed

This review has been asked to identify:

- potential amendments to the Transport Standards, in response to identified problems in the first five years of their implementation ; and
- changes to the administrative, governance and information structures and processes that support the Transport Standards, where appropriate.

This review canvasses an extensive set of issues, reflecting both the range of stakeholders affected by the Transport Standards and their scope. It is important for this review to identify the key issues for consideration by government, which can be addressed through changes to the Transport Standards, the supporting administration or policy. That is, to take the breadth of issues identified through research and stakeholder comments and bring forward the most critical issues to be addressed.

These issues can be categorised as:

- issues which impact on the effectiveness of the Transport Standards across a majority of modes of transport and stakeholders — systemic issues; and
- issues specific to particular modes of transport — mode specific issues.

Systemic issues identified by this review

The ten systemic problems identified by this review are set out in Table ES.1 below with recommended actions to address each issue.

Table ES.1

KEY ISSUES AND PROBLEMS IDENTIFIED IN REVIEW ANALYSIS

Key issues/problems identified	Recommended action
1. There is a lack of data to assess progress against the Transport Standards	Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government
2. There is a lack of data on patronage of public transport by people with disability	Request the ABS include questions on public transport patronage in their Disability surveys
3. Referencing of Australian Standards in the Transport Standards limits the ability of people with disability to understand required outcomes from the Transport Standards	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 in the Transport Standards, and made available for public use
4. Some references to Australian Standards are inappropriate for conveyances or transport infrastructure	As above
5. The Transport Standards do not provide sufficient flexibility to accommodate specific characteristics of modes of transport	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
6. There are barriers to operators and people with disability in identifying compliant mobility aids	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
7. There is insufficient information sharing on best practice examples of accessible public transport	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 public transport
8. The costs of upgrades in rural and regional areas have the potential to delay or impede compliance with the Transport Standards	Commonwealth, State and Territory government provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure
9. Compliance relies on complaints by people with disability	The AHRC provide greater support for representative complaints, reducing the cost burden on individuals
10. Current governance arrangements do not provide sufficient mechanisms to address problems with the Transport Standards	APTJC responsibility for new governance and accountability arrangements, in partnership with APTNAC

Availability of information on compliance with the Transport Standards to support monitoring and future reviews

Chapters 6 and 10 of this report describe the lack of standard compliance reporting on the Transport Standards, including information on accessibility of public transport services and infrastructure. The lack of consistent reporting on accessibility constrains the capacity of reviews, such as this one, to assess the effectiveness of the Transport Standards. It also limits the efficiency and effectiveness of the complaints-based approach to compliance, which leads to a disincentive for non-compliant parties from reporting on accessibility.

One option considered by this review, in its Draft Report, was mandatory reporting of compliance with the Transport Standards. A key problem with reporting directly on compliance is that the Transport Standards set targets that do not lend themselves to such reporting. The purpose of the Transport Standards is to set targets for Transport providers and operators which allow them to meet their obligations under the DDA. These targets are not the only way in which obligations can be met — providers may choose to use an equivalent access solution, or claim unjustifiable hardship (if a complaint has been made) if they are unable to comply. Reporting directly against targets does not capture these other means of meeting obligations.

An alternative is to report data on accessibility of service provision, rather than direct compliance — essentially what this review has attempted to do in Part B of this report, albeit with a range of different sources, gaps and inconsistencies in what is reported. This reporting could be done through the Action Plan process, with a standardised reporting framework and requirements for annual reporting. Once implemented by State and Territory governments, the reporting framework should be expanded to cover large private transport providers that are not captured in a State and Territory report (the most obvious example being airlines). This data could be compiled at a national level and used in subsequent reviews of the Transport Standards.

A further indicator of the accessibility of public transport is the extent to which people with disability patronise accessible services. At present, there is no robust data on patronage trends for people with disability on public transport. The collection of patronage data, while not a performance indicator under the Transport Standards, is one method of measuring the effectiveness of the Transport Standards in improving accessibility for people with disability. This review recommends that the Australian Bureau of Statistics (ABS) be tasked with collecting such data as a component of their disability surveys.

Accuracy and transparency of technical standards within the Transport Standards

Chapter 7 of this report provides a detailed discussion of the use of Australian Standards within the Transport Standards. This analysis highlights two problems with the use of referenced Australian Standards.

First, references to Australian Standards, without specifying the technical outcomes, limit the transparency of required outcomes. The Transport Standards, as currently drafted, do not provide immediate access to all information necessary to understand the requirements for a particular conveyance or type of infrastructure. In order to make informed complaints about compliance with the Transport Standards, people with disability need to have available to them information on what the Transport Standards require, at minimal cost to them.

The second problem relates to applying Australian Standards developed for the built environment to public transport. These are set out in Chapter 8 of this review, and many of them were the subject of the Australasian Rail Association (ARA) exemption application to the AHRC.

One option to address this problem is for the Australian Government to obtain a copyright licence to reproduce the text from the Australian Standards in the Transport Standards. Reproducing the text of the Australian Standards in the Transport Standards, however, does not address the issue of whether or not the Australian Standards referred to are the most appropriate.

An alternative, recommended by this review, is for the Australian Government to establish a working group with Standards Australia to develop appropriate accessibility standards for different modes of transport. These ‘custom-built’ standards would be of the same quality as Australian Standards, and subject to the same consultative and testing process as the Australian Standards, but they would be designed for the purpose of improving the accessibility of conveyances, and would take into account the limitations of space for aspects such as stairways, toilets or storage of mobility aids. This option could therefore address other current problems with technical standards in the Transport Standards.

Appropriateness of the Transport Standards to address mode specific issues

The Transport Standards, as a single document applied across the public transport sector, struggles to pick up various mode-specific issues. In Chapter 7 of this report, examples are provided of cases where the application of particular requirements is appropriate for one mode of transport but not for others. While the Transport Standards specifies where particular requirements only apply to some, or one, mode of transport, there remain areas where requirements are not appropriate.

The Draft Report recommended that modal guidelines be developed, in the place of the current Guidelines, to provide specific direction and information on how to apply the Transport Standards by mode of transport. These modal guidelines would also address uncertainty where the Transport Standards are silent or unclear on issues that are important for a specific mode (as is the case for air travel in many instances). Where the Transport Standards specify a particular requirement, the guidelines would provide advice on how this requirement can be complied with for each mode (thereby addressing particular technical or practical issues which providers face). These guidelines would replace the current Transport Standards Guidelines, which many stakeholders considered were not sufficiently informative, or did not know existed.

Stakeholders, in comments to the review, generally supported the proposal for modal guidelines, though with some concerns that the guidelines would not be enforceable. An option to address these concerns would be to specify the role of guidelines in complaint conciliation or court proceedings. The guidelines should not differ from the Transport Standards in terms of their requirements, but rather should provide information and practical examples, where possible, in plain English on how a provider can demonstrate their compliance with the Transport Standards, and thus the DDA (which is the ultimate value of the Transport Standards). As such, the ‘enforceability’ or otherwise of guidelines is not a concern, as any requirements in the guidelines are established under the Transport Standards. This review maintains its recommendation that modal guidelines be developed, and be the responsibility of modal sub-committees under APTJC and APTNAC.

This option was recommended over the options of maintaining the current Guidelines or revising the Transport Standards themselves to be modal-based. The option of modal guidelines was preferred because it involved a smaller adjustment cost for transport providers (than revisions to the Transport Standards), while still being an authoritative source for providers and people with disability.

Support for providers of accessible public transport

Across the range of mobility aids available for purchase in Australia, only a proportion are suitable for use on public transport, primarily due to their size (i.e. they are larger than the allocated space or boarding width size specified in the Transport Standards).

Public transport providers are concerned that, while they are complying with the Transport Standards in relation to the size of ramps, width of access paths, manoeuvring areas and allocated space, these are all based on the size of a wheelchair established in the Transport Standards (based on the Australian Standard). This is one area of the Transport Standards where a performance-based approach is not appropriate. Given the large range of mobility aids currently being used, complying with an outcome-based standard would mean allowing sufficient space for the largest possible size of mobility aid (the outcome being that you had to design a conveyance or infrastructure so that mobility aids could fit). Equally, given the large amount of investment that has already been made on the specifications in the Transport Standards, the costs of changing the specifications in the Transport Standards would be prohibitive and inefficient.

In their comments to this review, stakeholders were very supportive of an information and education approach to addressing these problems. The most effective and efficient approach would be to introduce a program of labelling mobility aids (with a sticker) that indicates whether a particular model meets the specifications under the Transport Standards (for weight, dimensions and turning capabilities).

This review maintains its recommendation from the Draft Report that a national system of labelling for mobility aids be introduced. Commitment from the Commonwealth, State and Territory governments is essential for this initiative to progress.

A further way in which providers could be supported in their implementation of the Transport Standards is through improved sharing of best practice examples. Amongst these groups, there is a perception that there is currently little information sharing between jurisdictions, as well as an unwillingness to seek out solutions. Local governments also reported a desire for improved information sharing on best practice. State and Territory government departments were less concerned about this issue, perhaps reflecting their own position within APTJC, a forum which allows them to discuss implementation issues.

This review maintains its recommendation from the Draft Report that a clearinghouse for best practice in accessible public transport be established, which may include technical solutions or ways in which to provide equivalent access. The proposal in the Draft Report was to have a clearinghouse based in a research body or government department, which would collect and disseminate best practice examples and ideas, both in meeting the requirements in the Transport Standards, and more generally on accessible public transport.

Availability of resources to upgrade public transport infrastructure

This review found that smaller public transport providers and local government are experiencing the greatest pressure on resources in meeting their obligations under the Transport Standards. The Transport Standards do have provisions for unjustifiable hardship, though the extent to which this avenue is open to providers is uncertain (as it needs to be tested in the course of a complaint).

The issue of resourcing infrastructure upgrades by local governments was reported in the Draft Report, but not directly addressed in Draft Recommendations. Several stakeholders, in comments on the Draft Report, requested that the review consider this issue more directly, citing the significant resource pressures on local governments, with the risk that milestones will not be achieved. This is particularly the case in regional and rural areas where there is a lack of existing infrastructure to support upgrades. Local governments in these areas, in particular, therefore face ‘steeper’ investment requirements where they are starting from a lower base of existing infrastructure (such as footpaths, roadside curbs etc).

In light of these findings, the review recommends that Commonwealth, State and Territory governments consider establishing a fund for infrastructure upgrades, in order to support compliance with the Transport Standards milestones. The funding of projects would be directly attributable to those areas of greatest need, where geographical conditions increase the cost of infrastructure upgrades for local governments. This program should be supplemented with information and education programs for local councils to assist them in understanding their obligations under the DDA.

Effectiveness of complaints-based enforcement

The current complaints process has been criticised by some stakeholders for its reliance on individual complaints as the primary means of identifying non-compliance with the Transport Standards.

One option explored by this review in its Draft Report is to broaden the AHRC’s role to be able to bring complaints before the Federal Court on behalf of public transport users. Currently, only a public transport user who believes that they have been discriminated against can bring a complaint to the AHRC. Data in chapter 10 of this report show that only a very small proportion of unresolved complaints proceed to court. A role for the AHRC in this regard would be to bring forward cases of non-compliance with the Transport Standards that may not be being progressed by individuals.

The key limitation of this approach is that it places into question the independence of the AHRC as a conciliator of complaints, which is a particular concern of public transport providers. An alternative, recommended by this review, is for assistance to be provided to representative complaints through the AHRC, in situations where conciliation does not produce an outcome. Such assistance could be in the form of advice on representative complaints requirements for the Federal Court.

The attractiveness of this option is that it provides additional support for people with disability in making complaints, while at the same time avoiding the costs and potential risks of the AHRC taking a lead role in initiating litigation. While this role may still lead to concerns over impartiality, it is more aligned with the current role for the AHRC as *amicus curiae*.¹

Effectiveness of governance and administration of the Transport Standards

This review heard frustration from public transport operators and providers about the adequacy of consultative mechanisms around the Transport Standards. The current arrangements are not viewed as being effective in managing problems with implementation of the Transport Standards, or providing advice on obligations or rights under the Transport Standards. The infrequency of meetings by responsible committees, and slow progress of issues (such as the work on mobility aids) are key reasons for the poor perceptions of the current arrangements. Given the issues identified in this review, and the range of initiatives recommended, it is important that a governance and administration framework be in place that can progress improvements to the current system. Options to improve the current arrangements include:

- *Option 1: APTJC to have responsibility for managing administration of the Transport Standards.* This option establishes APTJC responsibility, in consultation with APTNAC, to progress initiatives to improve the effectiveness of the Transport Standards. Under this option, APTJC would be tasked with responsibility for establishing and resourcing the various necessary small groups and committees required to progress recommendations from this review. APTJC would be required to report to APTNAC on progress, and committees' reports could also be provided directly to APTNAC for comment. Meetings of the committee would increase in frequency to ensure that matters are progressed in a timely manner. This is the recommended model from the Draft Report.
- *Option 2: APTNAC to have responsibility for managing administration of the Transport Standards.* Under this model, the processes and structures described above would apply, but with responsibility placed with APTNAC rather than APTJC. The advantage of this model is that APTNAC has a broader membership and thus there would be greater involvement from industry and disability sector representatives. This option was considered at the Draft Report stage, but discounted because APTNAC has an advisory function rather than an administrative or coordination function, and is too large to be effective in an administrative role. Further, non-government members of APTNAC are unlikely to be able to commit the necessary time to perform administrative functions.
- *Option 3: Establish a new body to manage and administer the Transport Standards.* A third option considered, was the establishment of a new body to coordinate initiatives. The advantage of this approach is that it would avoid the current poor perceptions about APTNAC and APTJC. In reality, however, membership of any new body would likely include the majority of current members of APTNAC (government, industry, disability sector, the AHRC), as

¹ Amicus curiae is a legal Latin phrase, literally translated as "friend of the court", that refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

these are the key stakeholders who need to be included. Creating any new body would therefore, incur costs for little gain.

This review considers that the framework presented in the Draft Report represents the best model. The effectiveness of the approach will rely on funding commitments from governments to ensure that new committees are well resourced.

Mode specific issues identified by this review

Alongside the systemic issues above, this review has identified several key issues which relate to specific modes of transport. These issues can be addressed, primarily, through the proposed modal sub-committees and modal guidelines, which are intended to improve the capacity of the Transport Standards to address mode specific issues.

Table ES.2 sets out the seven modal specific issues identified by this review, and recommended actions to address these issues.

Table ES.2

KEY ISSUES AND PROBLEMS IDENTIFIED IN REVIEW ANALYSIS – MODE SPECIFIC ISSUES

Key problems identified	Preferred option to address the problem
1. Trams — future compliance targets in 2017 and 2022 do not reflect vehicle replacement schedules	The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent 80 per cent to better reflect vehicle replacement cycles
2. Taxis — current compliance target does not allow for staged implementation. Measure used is difficult to observe for compliance purposes	The 2007 milestone for WAT compliance with the Transport Standards be replaced with a staged implementation timeframe, similar to that for other modes of transport
3. Buses, coaches and taxis — uncertainty around safety of seating in mobility aids in buses, coaches and taxis	Government should 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
4. Buses and Coaches — exclusions that apply to community transport vehicles limit current and future provision of services for people with disability	Requirements for accessibility of new community transport vehicles greater than 12 seat capacity in place from 2017
5. Buses and Coaches — exclusions that apply to dedicated school buses limit current and future provision of services for students with disability	Exclusions for dedicated school bus services be phased out starting in 2029, reflecting replacement cycles for route and school bus vehicles
6. Air travel — no guidance in the Transport Standards of what are appropriate conditions of air travel	Air travel modal sub-committee (the Aviation Access Working Group) be tasked to develop guidance on the carriage of mobility aids on aircraft

Review Recommendations

Recommendation 1:

Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government

Recommendation 2:

Request the ABS to include questions on public transport patronage in their Disability surveys

Recommendation 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 in the Transport Standards, and made available for public use

Recommendation 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

Recommendation 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

Recommendation 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 public transport

Recommendation 7:

Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure

Recommendation 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

Recommendation 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

Recommendation 10:

The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent to 80 per cent to better reflect vehicle replacement cycles

Recommendation 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

Recommendation 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

Recommendation 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)

Recommendation 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

Recommendation 15:

Air travel modal sub-committee (the Aviation Access Working Group) be tasked to develop guidance on the carriage of mobility aids on aircraft

In addition to these recommendations, Appendix E provides findings and recommendations that pertain to each Part of the Transport Standards.

Part A

Introduction and background

Chapter 1

Background and key concepts

1.1 The objective of the Disability Standards for Accessible Public Transport

The introduction of the Commonwealth's *Disability Discrimination Act 1992* (the DDA) represented a fundamental shift in the treatment of people with disability in Australia. The DDA diverged from the traditional medical model of disability, instead adopting a new approach premised on an individual's right to engage in meaningful social and economic experiences. Section 3 of the DDA states that the objects of the Act are:

- (a) 'to eliminate, as far as possible, discrimination against persons on the ground of disability in the areas of:
 - (i) work, accommodation, education, access to premises, clubs, sport; and
 - (ii) the provision of goods, facilities, services and land; and
 - (iii) existing laws; and
 - (iv) the administration of Commonwealth laws and programs; and
- (b) to ensure, as far as practicable, that persons with disabilities have the same rights to equality before the law as the rest of the community; and
- (c) to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community'.

While the DDA makes discrimination on the grounds of disability unlawful it does not:

- specify the ways in which compliance can be tested, or the means by which parties assure compliance with the DDA; or
- provide clarification on the specific matters relating to the requirements of the DDA (except where an exemption is provided by the Australian Human Rights Commission [AHRC] or there is a determination by a court).

In response to these issues, the Australian Government sought to develop Disability Standards under the DDA in the areas of education, access to premises, public transport and employment. The Disability Standards for Accessible Public Transport (Transport Standards) were the first Disability Standards to be introduced when they were passed into law on 23 October 2002. Disability Standards for education were introduced in 2005. Box 1.1 provides further details on the process of developing and reaching agreement on the Transport Standards.

Box 1.1

THE DEVELOPMENT OF THE TRANSPORT STANDARDS

The development of the Transport Standards dates to late-1995 when the Commonwealth Government empowered Blind Citizens Australia to convene and administer the Disability Discrimination Act Standards Project. The project's purpose was to 'facilitate community consultation' in the development of DDA standards and to 'channel community feedback' to governments and industry representatives during the standards making process (Jolley 1999:2.4).

Agreement quickly emerged between the Commonwealth, State and Territory Transport Ministers about the technical feasibility of developing a framework of national standards. Over the next three years several draft standards were circulated for community consultation and a detailed Regulation Impact Statement (RIS) was drawn up to assess the financial costs and social benefits of a system of Transport Standards (Jolley 1999:2.4). However, considerable disagreement existed around key principles of the draft standards especially the terms relating to 'unjustifiable hardship' — and the main parties failed to broker an agreement before the turn of the century.

Disagreement about key terms of the Transport Standards persisted until 2002 when approval was granted by the Australian Transport Council. They agreed that it was highly beneficial for all parties if 'some rules defining what equal access meant, and when it had to be achieved by' were clearly spelled out in the Transport Standards (Innes 2006). Within the year the Transport Standards were finalised and received parliamentary assent on 23 October 2002.

Sources: Jolley, W. 1999; Innes, G. 2006.

The creation of the Transport Standards recognised that access to public transport is vital for people with disability, their families and their carers to fully participate in community life. The Transport Standards were also envisaged to provide benefits not only to people with disability but to 'many older Australians and parents with infants and prams who use public transport services' (Attorney-General's Department, 2006). While providers of public transport had obligations to provide access for people with disability prior to the introduction of the Transport Standards (through their obligations under the DDA), the purpose of the Transport Standards is to clearly set out how public transport operators and providers can remove discrimination in providing public transport for people with disability, and thus meet their obligations under the DDA.

1.2 This review

The Transport Standards (Part 34) require the Minister for Infrastructure, Transport, Regional Development and Local Government, in consultation with the Commonwealth Attorney-General, to review the efficiency and effectiveness of the standards within five years of their coming into effect. (Box 1.2).

Box 1.2

TRANSPORT STANDARDS: PART 34 AND SCHEDULE 1**Part 34 Review**

- (1) The Minister for Transport and Regional Services, in consultation with the Attorney-General, is to
 - (a) review the efficiency and effectiveness of these Standards within 5 years after they take effect and
 - (b) carry out a subsequent review every 5 years after the initial review.
- (2) The review must include
 - (a) whether discrimination has been removed, as far as possible, according to the requirements for compliance set out in Schedule 1 and
 - (b) any necessary amendments to these Standards.

Source: Attorney-General's Department, 2005.

Allen Consulting Group (ACG) was engaged to conduct this first review of the Transport Standards since their introduction. The detailed review Terms of Reference are in Appendix A.

1.3 Key concepts for this review

Scope of the Transport Standards

The Disability Standards for Accessible Public Transport establish minimum accessibility requirements for the providers and operators of ‘public transport conveyances, infrastructure and premises’. They include a wide range of requirements for: access paths; manoeuvring areas; ramps and boarding devices; allocated spaces; doorways; controls; symbols; signs; waiting areas; boarding points; allocated spaces; surfaces; hand and grab rails; doorways and doors; lifts; stairs; toilets; Tactile Ground Surface Indicators (TGSIs); alarms; lighting; controls; furniture and fittings; street furniture; gateways; payment of fares; hearing augmentation-listening systems; information provision; booked services; food and drink services; belongings; and priority arrangements (Attorney-General’s Department, 2006).

The Transport Standards set out requirements for providers and operators that apply to the following modes of transport or ‘conveyances’:

- aircraft;
- buses or coaches;
- ferries;
- taxis;
- trains, trams, light rail, monorails, rack railways; and
- any other rolling stock, vehicle or vessel classified as public transport within its jurisdiction by regulation or administrative action of any Government in Australia.

The Transport Standards themselves are not structured around modes of transport, but apply to each mode in a particular way (allowing for the nature of the mode and what needs to be done to provide accessibility).

Some transport services, such as school bus services and limousines and hire cars, were excluded from some, or all Parts of the Transport Standards during the implementation phase, in response to particular cost or technical concerns. The AHRC has the power to grant temporary exemptions from the DDA and the Transport Standards on application. These temporary exemptions allow providers a specified period of time to address particular problems with meeting the requirements in the Transport Standards.

Efficiency and effectiveness

The definitions of efficiency and effectiveness to be used in the review were provided as part of the request for tender. They are presented in Box 1.3.

Box 1.3

DEFINITIONS OF EFFICIENCY AND EFFECTIVENESS FOR THIS REVIEW**EFFECTIVENESS**

The extent to which the outcomes attributable to the Transport Standards have fulfilled the purpose of the Transport Standards as stated in sub-section 1.2(2) of those Standards, being to enable public transport operators and providers to remove discrimination from public transport services.

EFFICIENCY

The costs of obtaining outcomes attributable to the Transport Standards.

Source: Australian Government Department of Transport and Regional Services (DOTARS), 2007.

The framework that this review has adopted to assess effectiveness and efficiency is provided in Section 1.5 of this chapter.

Removing discrimination

The objective of the DDA and the Transport Standards is to eliminate, as far as possible, discrimination against persons on the grounds of disability. The Transport Standards Guidelines indicate that:

Discrimination can occur either directly or indirectly. Sections 5 and 6 of the Disability Discrimination Act 1992 define direct and indirect discrimination. In summary, direct disability discrimination arises if an operator or infrastructure provider treats a person with a disability less favourably than another person in a similar situation. Indirect disability discrimination arises when the impact of an operator's or provider's service is less favourable for a person with a disability than for a person without a disability. (Disability Standards for Accessible Public Transport Guidelines 2004 No.3, p. 7)

The role of the Transport Standards is to enable public transport providers and operators to provide a service that, as far as possible, does not discriminate between their customers on the basis of disability.

The terms of reference for this review require an assessment of the extent to which discrimination has been removed, given the requirements of the first milestone date in the Transport Standards (31 December 2007). Such assessment requires an indication of levels of discrimination when the Transport Standards were introduced, and then again at the five year milestone.

Discrimination is an intangible concept which does not lend itself to being measured along a quantitative scale. Within the framework of the DDA and the Transport Standards, determining whether discrimination has occurred is an assessment made on a case-by-case basis depending on the individual circumstances of the person making a claim of discrimination, rather than at a system or region level. Using information on complaints of discrimination provides a limited assessment given:

- complaints are likely to only represent a small proportion of actual cases of discrimination, given the effort involved in an individual making a complaint; and

- to make a complaint, an individual needs to be aware of their rights, and be able to recognise when they are being discriminated against (when, in practice an individual can be discriminated against even if they are not aware of this discrimination).

It is important to note that discrimination is a relative measure — it assumes that a level of access or treatment is below that of others. In assessing whether discrimination is occurring, therefore, it is necessary to understand the ‘non-discrimination’ case, which is the treatment or access a person would have received in the absence of a characteristic (such as race, gender or disability). For this review, it is therefore important to understand overall access to public transport across the community, and how this compares to that for people with disability, to understand whether discrimination is being removed.

In public hearings and submissions for this review, many stakeholders did not distinguish between the different objectives of:

- removing discrimination for people with disability to access public transport on the same basis as all other people in the community versus;
- providing specific transport and support networks for people which meet their needs and allow them to participate in the community.

There is no doubt that this second objective is highly important, and indeed removing discrimination in access to mainstream public transport services will in many cases go a long way to achieving this objective. It is, however, outside the scope of the DDA and the Transport Standards, which are rights-based legislation (and thus consider access to existing services). Providing targeted services to people with disability is the role of specific government and non-government services and programs, as the Productivity Commission noted in its review of the DDA:

It is important to note that the DDA does not require equality of *outcomes* for people with disabilities. For example, in employment they must be able to meet the inherent requirements of the job, and employers are able to choose the best applicant on merit. In the Commission’s view, improved outcomes for people with disabilities are important, and should ultimately flow from the improved opportunities made possible by the DDA. But attempts to influence outcomes directly should be pursued through other mechanisms, such as improved disability services. (Productivity Commission, 2004, p. xxx).

This review seeks to use a broader set of information to assess whether the Transport Standards have been effective in removing discrimination. This report uses that concept of accessibility extensively in assessing whether public transport conveyances, infrastructure and premises are available for use by people with disability. In doing this, the review considers whether services that are available for all passengers are also available for people with disability, and to what degree? Chapters 2-5 of this report assess the current level of accessibility across the seven public transport sectors within the scope of the Transport Standards. This information provides a valuable indicator of the progress made by operators and providers in improving access to their public transport services, in response to the requirements in the Transport Standards. Chapter 6 uses the outcomes of this analysis, as well as reported experience of people with disability to make a judgement about the extent to which discrimination has been removed in the first five-year period since the introduction of the Transport Standards.

Compliance with the Transport Standards

The Transport Standards apply to all transport conveyances and infrastructure introduced after 23 October 2002. For conveyances and infrastructure existing prior to this date, a progressive compliance timetable applies. This timetable sets milestones for compliance over a 30-year period (Table 1.1 identifies compliance targets for 31 December 2007. Appendix C provides further detail).

Table 1.1

TRANSPORT STANDARDS SCHEDULE 1: COMPLIANCE TARGET 31-12-2007

Part	Responsibility	Requirement	Application
1.1	Operators Providers	Full compliance with the relevant standards in relation to: <ul style="list-style-type: none"> Waiting Areas Symbols Signs Alarms Lighting Furniture and fittings Hearing augmentation Information Booked services Food and drink services Belongings Priority 	Conveyances: <ul style="list-style-type: none"> All Premises: <ul style="list-style-type: none"> All Infrastructure: <ul style="list-style-type: none"> All except bus stops
1.2	Radio networks Co-operatives	Response times for accessible vehicles are to be the same as for other taxis.	Conveyances: <ul style="list-style-type: none"> Taxis Dial-a-ride services Premises: <ul style="list-style-type: none"> none Infrastructure: <ul style="list-style-type: none"> none
1.3	Operators Providers	Compliance with the relevant standards by 25% of each type of service in relation to: <ul style="list-style-type: none"> Access paths Manoeuvring areas Passing areas Ramps Waiting areas Boarding Allocated Space Surfaces Handrails and grabrails Stairs Symbols Signs TGSIs Lighting Street furniture Information 	Conveyances: <ul style="list-style-type: none"> All Premises: <ul style="list-style-type: none"> All Infrastructure: <ul style="list-style-type: none"> All except bus stops
1.4	Providers	Compliance with the relevant standards by 25% of bus stops in relation to: <ul style="list-style-type: none"> Access paths Manoeuvring areas Passing areas Ramps Waiting areas Boarding Allocated Space Surfaces Handrails and grabrails Stairs Symbols Signs TGSIs Lighting Street furniture Information 	Conveyances: <ul style="list-style-type: none"> None Premises: <ul style="list-style-type: none"> None Infrastructure: <ul style="list-style-type: none"> Bus stops

Source: Attorney-General's Department, 2005.

In addition to new public transport conveyances, premises and infrastructure, the Transport Standards apply to:

- conveyances, premises and infrastructure that have undergone significant refurbishment or alteration;
- additional or replacement equipment on conveyances or in premises and infrastructure;
- new or revised ancillary services provided by the public transport; and
- new or updated information supplied to the public (Attorney-General's Department, 1999).

There is currently no mandatory mechanism for reporting compliance with the Transport Standards, nor any body that monitors compliance in a systematic way. Transport operators and providers may choose to report their compliance with the Transport Standards, and their plans for upgrading conveyances and infrastructure in the future, such as through Action Plans. The AHRC maintain a register of Action Plans that have been submitted by various organisations spanning across government, businesses, not-for-profit and education institutions. Action Plans are developed and submitted voluntarily, however, they do not by themselves demonstrate compliance with legal or regulatory obligations. As noted on the AHRC website:

Organisations that have Action Plans are likely to have consulted with people with disabilities and/or their representative organisations; reviewed their policies and practices, identified barriers for people with disabilities in accessing services, and planned strategies to eliminate these barriers. (HREOC, 2007e)

During consultations for this review, several government agencies mentioned that they found Action Plans to be useful, and were keen for the development and registration of Action Plans to play a greater role in ensuring compliance with the Transport Standards. Some operators and providers also stated that they felt that drafting and registering Action Plans gave them some 'cover' against complaints of non-compliance from users.

On their website, the AHRC are careful to note that 'the success of an action plan, in terms of eliminating disability discrimination and in being used as a defence against complaints, will largely depend on the effectiveness of the actions taken' (HREOC, 2007e). Nevertheless, stakeholders to this review have noted that the process of developing and drafting an Action Plan is a useful internal process. For example, in their submission, the NSW Ministry of Transport observed that:

In NSW, the clarification of obligations arising from the removal of barriers to access is assisted by the preparation of a disability action plan. The preparation of disability Action Plans is mandatory under the New South Wales Disability Services Act 1993. The Ministry is the coordinating agency for the disability action plan for the Transport portfolio which it develops with relevant transport agencies. The disability action plan outlines

- responsibilities of transport agencies
- the guiding principles towards integrating accessible transport services and
- progress to date and future strategies and actions for the provision of accessible transport services. (sub. 90, p. 15)

In addition, Action Plans demonstrate that organisations have considered how accessibility issues can be addressed, and provide users with information about how far accessibility arrangements have progressed, and what future implementation stages will entail. In relation to public transport, the following organisations have registered Action Plans with the AHRC:

- Connex;
- TransAdelaide (formerly Hills Transit);
- Metro Tasmania;
- Merseylink;
- National Express;
- Serco Adelaide Buses;
- Tassielink Coaches;
- Yarra Trams; and
- the government departments or ministries for transport of New South Wales, Victoria, South Australia, Western Australia, and the Australian Capital Territory.

While information in Action Plans is useful for noting progress, Action Plans cannot be used to make a judgement on compliance with specific parts or provisions of the Transport Standards.

Indeed, this review is not intended to determine compliance or non-compliance with the Transport Standards for any particular mode of transport, region or provider. A judgement on compliance or non-compliance with the Transport Standards can only be made by the Federal Court or Federal Magistrates Court. As the AHRC Disability Commissioner Graeme Innes notes:

It is only the Federal Court or Federal Magistrates Court that can make a determination about whether or not the Standards have been contravened and, if so, what action the service provider must take to remedy the situation. (HREOC, 2007a)

1.4 Expected impacts of the Transport Standards

The development of the Transport Standards required a Regulation Impact Statement to be developed, with a full cost-benefit analysis of the impact of the Transport Standards. The impact analysis was based on best available information and assumptions on the impact of the Transport Standards (given that the impact of Transport Standards could not be directly observed). The process of developing the Transport Standards identified three areas of expected impact: community, the public transport sector, and other government services.

Community impacts

The adoption of Transport Standards was expected to have a ‘significant beneficial impact on both current and potential users of public transport services who have a disability’ (Attorney-General’s Department, 1999). The main benefits for people with disability were anticipated as being:

- increased participation in the community (resulting in less isolation);

- better access to goods and services;
- improved ability to engage with the workforce and the economy; and
- improved access to education, and increased ability to engage in recreational and leisure activities.

Improved access to mainstream public transport was also expected to reduce reliance by people with disability on more expensive modes of transport (provided mainstream public transport is coordinated with other aspects of the transport infrastructure such as station drop-offs). It was recognised that there should be benefits of Transport Standards for other groups who use public transport, specifically carers of people with disability, the elderly, people with small children and people carrying strollers (Attorney-General's Department, 1999).

Public transport sector impacts

The RIS argued that moves to improve accessibility of public transport for people with disability should have the flow-on impact of increasing the demand for public transport over the longer term. Using data available at the time, it was estimated that the implementation of standards would increase patronage by five to 13 per cent, with 90 per cent of trips being in off-peak periods (Attorney-General's Department, 1999).

It was also recognised that increased patronage of public transport by people with disability has implications for the capacity and timetabling of public transport. It was suggested that the provision of allocated space for wheelchairs and mobility aids would lead to a loss of between 0.6 per cent and 10 per cent capacity. It was also suggested that increased patronage could have implications for bus running times of up to two to three minutes per stop (Attorney-General's Department, 1999).

The financial cost of incrementally implementing the Transport Standards (over a 20-year period) was estimated to be somewhere in the order of \$3750 million (1998 prices). A significant part of the cost 'stems from the purchase of extra buses' in order to replace lost capacity due to allocated 'wheelchair spaces' and the 'estimated cost of modification' of bus and rail infrastructure to comply with the Transport Standards (Attorney-General's Department, 1999).

Finally, the impacts on small business operators were considered during the preparation of the Transport Standards. It was recognised that full compliance with the Transport Standards would be prohibitive for small operators and dampen demand for more expensive specialised transport services (Attorney-General's Department, 1999).

Impacts on other government services

Analysis in the RIS found that increased access to public transport would have numerous cross-sector benefits. In particular, access to public transport has the potential to improve the employment prospects of people with disability. Calculations done during the preparation of the Transport Standards estimated that potential employment benefits accounted for 50 per cent of the total cross-sector benefits. Other anticipated benefits included:

- chiropody (replacement of home visits by visits to clinics);

- meals (reduction in home delivered meals);
- general practitioners (replacement of home visits with visits to the surgery);
- social work (reduction in home visits);
- residential and day care (greater proportion of persons supported by day, rather than residential, care); and
- patient transfer services (savings on non-emergency ambulance costs) (Attorney-General's Department, 1999).

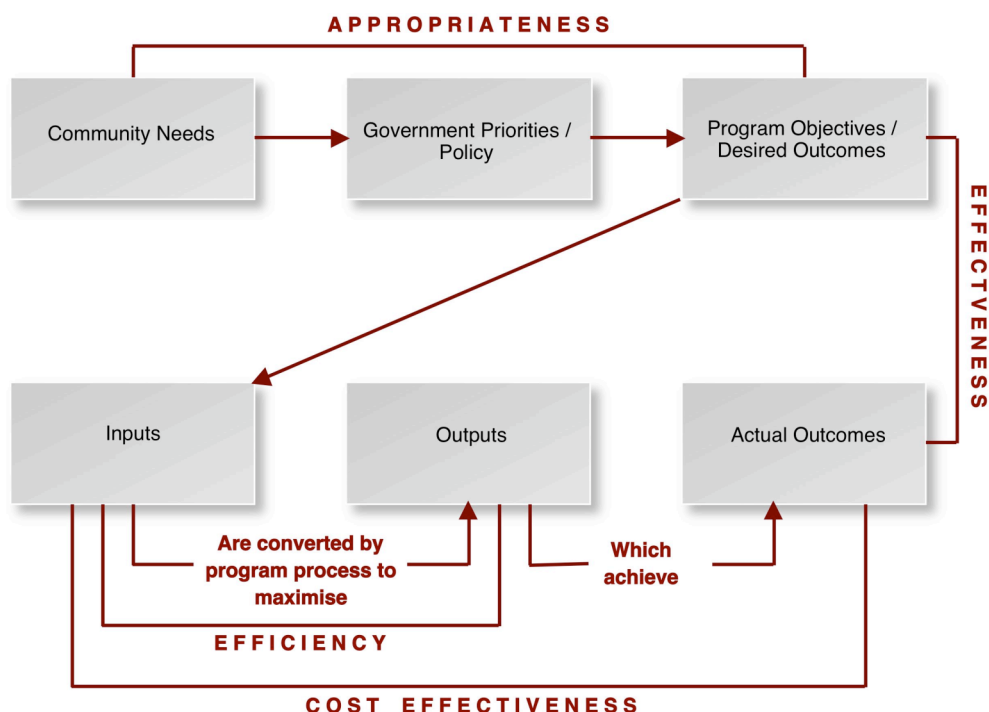
1.5 Framework for analysis

The primary objective of this review is to assess the effectiveness and efficiency of the Transport Standards (using the definitions provided in Box 1.3). The concepts of effectiveness and efficiency can be used in assessments of many different government actions — policies, programs, processes, and, as in case of the Transport Standards, regulation.

To make this judgment, the review employs an evaluation framework based on the Productivity Commission's performance measurement framework for government services (Figure 1.1). This Figure shows the relationship between effectiveness and efficiency in a standard evaluation framework. It highlights the importance of considering both outcomes from a government initiative, and the inputs required.

Figure 1.1

EVALUATION FRAMEWORK



Adapted from: Productivity Commission 2007.

Concepts of effectiveness and efficiency relate to how well regulation is performing — essentially whether it is meeting its objectives, and to what extent the costs involved with meeting these objectives are reasonable.

Assessing the Transport Standards in these terms involves considering whether:

- they are an effective piece of regulation that is meeting the overarching objective of removing discrimination for people with disability in accessing public transport (the effectiveness of the Transport Standards); and
- the costs to all stakeholders of implementing the Transport Standards outweigh the benefits (the efficiency of the Transport Standards). These costs can include capital and time costs of compliance activities, costs of administration for government, and enforcement costs.

What determines whether regulation is effective and efficient? Box 1.4 sets out the six principles of good regulatory process recommended by the Regulation Taskforce on Reducing Regulatory Burdens on Business in 2006. These principles emphasise that effective regulation is well targeted to an identified problem, incorporates an appropriate regulatory approach and delivers a net benefit for the community.

Box 1.4

PRINCIPLES OF GOOD REGULATORY PROCESS

The Taskforce on Regulatory Burden on Business recommended that good regulatory process requires governments to apply the following six principles.

- Governments should not act to address ‘problems’ through regulation unless a case for action has been clearly established. This should include evaluating and explaining why existing measures are not sufficient to deal with the issue.
- A range of feasible policy options — including self-regulatory and co-regulatory approaches — need to be assessed within a cost-benefit framework (including analysis of compliance costs and, where relevant, risk).
- Only the option that generates the greatest net benefit for the community, taking into account all the impacts, should be adopted.
- Effective guidance should be provided to regulators and regulated parties to ensure that the policy intent of the regulation is clear, as well as what is needed to be compliant.
- Mechanisms such as sunset clauses or periodic reviews need to be built in to legislation to ensure that regulation remains relevant and effective over time.
- There needs to be effective consultation with regulated parties at the key stages of regulation-making and administration.

Source: Regulation Taskforce, 2006.

The Regulation Taskforce also reported the main impediments to good regulatory practice, namely:

- inappropriate coverage, including ‘regulatory creep’;
- overlapping and inconsistent regulatory requirements ;
- regulation that has been badly designed and thus gives rise to unintended or perverse outcomes;
- excessive reporting or recording burdens; and

- variations in definitions and reporting requirements (Regulation Taskforce, 2006).

These impediments focus on the impact of poor regulation on business. It is important to recognise that consumers are equally impacted, both through ineffective regulation not meeting its objectives, and through costs of regulation being passed on to consumers in the form of higher prices. It is therefore in all stakeholders' interest for regulation to be both effective and efficient.

Using these broad principles, an assessment of the effectiveness and efficiency of the Transport Standards should involve considering:

- the extent to which the Transport Standards have removed discrimination for people with disability in accessing public transport (at this stage in their implementation);
- the current regulatory approach adopted in the Transport Standards, and whether it is the most effective approach to meet the objectives of the Transport Standards;
- the current coverage, or scope of the Transport Standards, which determines how effective the Transport Standards are in targeting appropriate activities in the community;
- the efficiency of the implementation process for the Transport Standards by providers; and
- the efficiency of administrative processes, such as compliance and enforcement.

The analysis in this report is structured around these broad themes.

It is important to note that this review will not conduct a full cost–benefit analysis of the Transport Standards. Such analysis on the Transport Standards, with a comparative analysis of options, was conducted in the Regulation Impact Statement in 1999. The current structure of the Transport Standards was chosen as the option that best addressed the problem with the lowest costs. Efficiency analysis in this review will assess how cost–efficient the process around administration and implementation of the Transport Standards have been in practice.

1.6 Report structure and response to the terms of reference

The report is structured as follows:

- Part A — Introduction and background:
 - Chapter 1 (this chapter): The Disability Standards for Accessible Public Transport.
- Part B — Current accessibility of public transport in Australia:
 - Chapter 2: Accessibility of trains and trams.
 - Chapter 3: Accessibility of taxis.
 - Chapter 4: Accessibility of buses and coaches.
 - Chapter 5: Accessibility of air travel and ferries.

- Part C — The efficiency and effectiveness of the Transport Standards:
 - Chapter 6: Effectiveness in removing discrimination for people with disability.
 - Chapter 7: Effectiveness of the regulatory approach.
 - Chapter 8: Scope of the Transport Standards.
 - Chapter 9: Efficiency of implementation of Transport Standards.
 - Chapter 10: Efficiency of administrative processes.
- Part D — Conclusions and recommendations
 - Chapter 11: Assessment of regulatory and policy options for change.
- Part E — Appendices
 - Appendix A: Review terms of reference.
 - Appendix B: Review methodology.
 - Appendix C: Stakeholder consultation.
 - Appendix D: Application of the Transport Standards by mode of transport.
 - Appendix E: Assessment of remaining issues for each Part of the Transport Standards.
 - Appendix F: Temporary exemptions.
 - Appendix G: Regulation impact assessment of key issues — systemic issues.
 - Appendix H: Regulation impact assessment of key issues — mode specific issues.
 - Appendix I: References

Table 1.2 sets out how the report structure responds to individual items in the review Terms of Reference that specify requirements for the report content.

Table 1.2

ADDRESSING THE TERMS OF REFERENCE

Terms of Reference	Requirement	Addressed in ...
1-3	Background – no requirement	
4	The review will review the efficiency and effectiveness of the Transport Standards and will: <ul style="list-style-type: none"> (i) Assess whether discrimination has been removed, as far as possible, according to the requirements for compliance set out in Schedule 1 of the Transport Standards. (ii) Assess the need for any amendments to the Transport Standards. (iii) Make recommendations for any necessary amendments to the Transport Standards. 	<p>Part B: Current accessibility of public transport for people with disability</p> <p>Part C: The effectiveness and efficiency of the Transport Standards</p> <p>Part D: Conclusions and recommendations</p>
5.	The Review will be consistent with the Australian Government's Regulation Impact Statement (RIS) framework as outlined in the Best Practice Regulation Handbook.	Part D: Conclusions and recommendations
6.	In reviewing the efficiency and effectiveness of the Transport Standards, the review will, among other things: <ul style="list-style-type: none"> (i) Consider the adequacy of the current structure and processes as well as the suitability of other approaches (such as outcomes-based regulation, co-regulatory approaches, Action Plans and compliance reporting) in achieving the purpose of the Transport Standards. (ii) Assess the impact of the current incorporation of references to the Australian Standards, the Australian/New Zealand Standards and the Australian Design Rules in the Transport Standards. (iii) Provide an assessment for each Part of the Transport Standards. (iv) Assess the extent to which unjustifiable hardship or equivalent access provisions are being utilised by service providers and/or operators. (v) Take into account the issues of promoting national consistency, efficient regulatory administration and compliance. 	<p>Part C: The effectiveness and efficiency of the Transport Standards</p> <ul style="list-style-type: none"> • Chapter 7: The regulatory approach • Chapter 8: Scope of the Transport Standards • Chapter 9: Implementation of the Transport Standards • Chapter 10: The efficiency of processes around the Transport Standards • Appendix E
7.	In assessing whether discrimination has been removed as far as possible, the review will, among other things: <ul style="list-style-type: none"> (i) Concentrate on compliance requirements at the initial 31 December 2007 target date for compliance (Schedule 1 Part 1 of the Transport Standards). (ii) Collect and analyse the available data and other information on compliance. (iii) Assess the scope and value of current compliance information and consider any implications for the assessment of whether discrimination has been removed. 	<p>Part B: The impact of the Transport Standards in the first five years</p> <ul style="list-style-type: none"> • Chapter 2: Accessibility of trains and trams • Chapter 3: Accessibility of taxis • Chapter 4: Accessibility of buses • Chapter 5: Accessibility of air travel and ferries • Chapter 6: Effectiveness of removing discrimination for people with disability
8.	In assessing and recommending necessary amendments to the Transport Standards, the review will, among other things: <ul style="list-style-type: none"> (i) Identify amendments for each Part of the Transport Standards. (ii) Identify costs and benefits to stakeholders. (iii) Take into account the issues of promoting national consistency, efficient regulatory administration and compliance. 	<p>Part D Conclusions and recommendations</p> <p>Appendix E</p>
9.	As the Disability Standards for Accessible Public Transport Guidelines 2004 (No.3) (the Guidelines) have been designed to accompany the	Part D Conclusions and recommendations

Transport Standards as a tool for interpreting the content of the Standards, the review will include appropriate recommendations for amendments to the Guidelines.

- | | | |
|-----|---|--|
| 10. | <p>In undertaking the Review, the consultant will:</p> <ul style="list-style-type: none"> a) Advertise nationally and consult with all levels of government and affected parties (in particular people with disability and their representatives, community interest groups and industry). b) Invite submissions from stakeholders and make submissions publicly available as they are received by the consultant. c) Facilitate participation by people with disability by ensuring that any meeting for the purpose of the Review is held at an accessible venue and that documentation and information distributed during the Review are available in alternative formats. d) Prepare a list of stakeholders consulted, for inclusion in the final written report. | <ul style="list-style-type: none"> a) Reported in Project Methodology (Appendix B) b) Reported in Project Methodology (Appendix B) c) Reported in Project Methodology (Appendix B) d) Provided in Appendix C |
| 11. | <p>The Review will draw on any relevant background material, including:</p> <ul style="list-style-type: none"> • Disability Discrimination Act 1992; • Disability Standards for Accessible Public Transport 2002; • Technical Review on Disability Standards for Accessible Public Transport 2002; • Productivity Commission Inquiry Report No 30, Review of the Disability Discrimination Act 1992 and the Australian Government response; • Applications for temporary exemptions under the Transport Standards and responses by the Human Rights and Equal Opportunity Commission, the Accessible Public Transport Jurisdictional Committee and other relevant parties; • Web sites operated by the Attorney-General's Department (http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_DisabilityStandardsforAccessiblePublicTransport) and the Human Rights and Equal Opportunity Commission (http://www.hreoc.gov.au/disability_rights/index.html#information); • Web site operated by the Office of Best Practice Regulation (http://www.pc.gov.au/orr/index.html); and • Public transport operator and provider compliance information. | <p>Throughout report, references used listed in Appendix I</p> |

Part B

*Current accessibility of public transport for
people with disability*

Chapter 2

Accessibility of trains and trams

Key findings

Trains

- Overall, accessibility of train travel has improved in the period since the introduction of the Transport Standards. Accessibility of trains for people who are mobility impaired is high for both metropolitan and regional train services, above what could be anticipated by the compliance targets in the Transport Standards.
- This accessibility is contingent on the provision of direct assistance from staff members on trains and at stations, which does pose problems for people with disability if staff are not available or not properly trained.
- There are not comprehensive data on accessibility of trains in relation to information, signage and other safety aspects, though typically newer rolling stock is more accessible than older stock in these areas.
- Accessibility of train infrastructure is less advanced than accessibility of train conveyances, with around a third of metropolitan stations in most capital cities being accessible for people who are mobility impaired.
- Stakeholders report low use of TGSIs and tactile signage at train stations (particularly at non-metropolitan stations). This impacts negatively on accessibility of train services for people who are vision impaired. However, lack of reporting against these elements makes it difficult to estimate the actual level of accessibility.

Trams

- New low-floor trams and platform tram stops in the Melbourne CBD mean that the long established tram system has become accessible for people using wheelchairs for one route. The new platform stops have also improved accessibility for people with vision impairments.
- The degree of accessibility for people with disability depends on the number of low-floor trams *and* the number and location of the new platform tram stops. While 10 per cent of all tram stops are platform stops, it is estimated that it is possible to board a low-floor tram from a platform tram stop on only 3 per cent of tram services. Service providers face considerable challenges in upgrading tram stops.

2.1 Introduction

Passenger train travel is available in all States and Territories in Australia, except Tasmania, with:

- both metropolitan train services (in capital cities) and regional services available in the other five States; and
- only regional or interstate train services available in the Northern Territory and the Australian Capital Territory.

Tram services are less common than train services in Australia, being provided in Victoria (metropolitan Melbourne) and South Australia (metropolitan Adelaide) only. The tram service in Melbourne is the third largest functioning tram network in the world (Yarra Trams, 2007). Adelaide has a single tramline, the Glenelg service that runs from King William St in central Adelaide south-west to Glenelg Beach.

2.2 Requirements under the Transport Standards

The Transport Standards include specific requirements intended to enable train and tram operators and providers to remove discrimination from train and tram services and infrastructure by making these public transport services accessible for people with disability. These requirements apply to both the conveyance (that is, the train carriages or the tram itself) and the infrastructure that supports the transport service (including stations, information about services, and facilities such as toilets).

The specific Parts of the Transport Standards that apply to trains and trams (both conveyances and infrastructure) are in Appendix C, Tables C.1 and C.2. For both trains and trams, the Transport Standards require:

- boarding ramps or devices to assist people getting onto and off the train or tram (including the way in which people can notify the operator that a boarding device is needed);
- a particular size and number of allocated spaces in the train or tram for people with disability, signage for these spaces, and access path and manoeuvring areas that allow people to get to allocated spaces;
- specific components of the train or tram to assist people with disability, including the type of floor surface, the placement of handrails and grabrails, the size of doorways, and the use of automatic or power-assisted doors;
- the provision of information on the train or tram, including signage to indicate destination points, and the use of international symbols for accessibility and deafness, emergency warning systems and public address systems (where used); and
- ticketing systems, including ticket validating machines to be accessible.

There are also requirements for the accessibility of toilets and food and drink services on trains, where these are provided for all passengers.

The Transport Standards set requirements for the accessibility of train and tram infrastructure for the following aspects:

- access paths, manoeuvring areas, resting points, stairs, lifts, ramps and passing areas that are used by people with disability to make their way into and around public transport infrastructure (such as stations, terminals, or stops). This includes accessibility for people with a mobility impairment and people with vision impairment;
- boarding points where passengers access conveyances, including the use of boarding devices and methods of notifying staff that a boarding device is required;
- facilities such as waiting areas, toilets and luggage services;
- booking services and purchasing of tickets at stations or stops;
- timetables and maps;
- information provided at stations or stops, including through signage, the use of symbols, public announcements, electronic information boards, alarms and warnings; and

- other components of infrastructure that impact on accessibility, including lighting, doors and doorways, the safety of ground surfaces and the use of handrails and grabrails.

For both trains and trams, the Transport Standards require that by 31 December 2007 the following accessibility standards are achieved:

- full compliance with requirements in relation to waiting areas, symbols, information, signs, lighting, hearing augmentation, booked services, belongings, food and drink services, alarms, priority seating, furniture and fittings; and
- 25 per cent compliance with requirements in relation to access paths, manoeuvring areas, passing areas, ramps, boarding, stairs, toilets, TGSIs, doorways, allocated spaces, controls, street furniture, resting points and lifts.

Since the introduction of the Transport Standards, there have been several temporary exemptions granted by the AHRC for train and tram providers, including exemptions for:

- the Australasian Rail Association (ARA), which received a three year temporary exemption to 36 Parts or sub-Parts of the Transport Standards in January 2007, for heavy rail services;
- Queensland Rail, which received a six month temporary exemption, in February 2002; and
- Melbourne Trams, which received a five year temporary exemption to sections 23 and 24 of the DDA from March 1999 to March 2004.

Of these exemptions, the only one that impacts on current compliance measures is the ARA exemption. The assessment in this chapter therefore considers accessibility in the context of the conditions of this exemption.

2.3 Accessibility of train travel

Accessibility of conveyances

The requirements in the Transport Standards indicate that an accessible train service is one that provides people with disability with:

- capacity to move from the platform onto the carriage and back again, managing any gap between the carriage and the platform, and or the steepness of any step up or down, or ramp;
- allocated seats or spaces inside the carriage for passengers with disability;
- announcements in accessible formats for people with a vision impairment and people with a hearing impairment;
- space for mobility aids or assistance animals brought on board by passengers with disability; and
- knowledgeable and helpful train drivers, station managers and other staff.

To date, the majority of data reported on accessibility of train travel relates to physical accessibility for people who are mobility impaired (primarily those that use a wheelchair or other form of mobility device). Table 2.1 reports accessibility of trains by State and Territory, for people who are mobility impaired. These numbers reflect the ability of people to access the train (using a boarding device) and have an allocated space in the train in which to travel. In all jurisdictions, this access is provided through direct assistance by staff. Overall, accessibility of trains for people who are mobility impaired is high, with all metropolitan services having all, or very close to all, of their trains accessible using manually deployed ramps.

There are limited data on other accessibility factors for trains, such as the use of handrails and grabrails, surfaces, controls on doors, information and signage. Feedback from stakeholders suggests that, where new rolling stock is used, trains are typically compliant with other requirements under the Transport Standards. Stakeholders reported improved accessibility where trains are fitted with:

- automatic doors that open at the push of a button, rather than requiring passengers to physically slide the doors open themselves; and
- screens in individual carriages that display information about where the train is stopping next, whether or not it is an express, or unexpected delays.

These are typically features found in new trains. Older trains generally do not have these features and are therefore less accessible.

Table 2.1

ACCESSIBILITY OF TRAIN CONVEYANCES FOR PEOPLE WHO ARE MOBILITY IMPAIRED (2007)

State or Territory	Metropolitan area	Regional areas
NSW	100% of rolling stock	50% of rolling stock
VIC (2006)	100% of rolling stock	100% of rolling stock for ramps and boarding, 80% for manoeuvring areas, 56% for allocated spaces
QLD	95% of rolling stock	50% of tilt train services from Cairns to Brisbane.
SA	100% of rolling stock	n.a
WA	100% of rolling stock	80% of rolling stock
TAS	n.a.	n.a.
NT	n.a.	No data available
ACT	n.a.	n.a.

Note: n.a. indicates not applicable.

Sources: New South Wales Ministry of Transport, 2007; sub. 71, p. 15; sub. 50 p.6; Public Transport Authority of Western Australia, 2006. South Australia data unpublished data provided by the South Australian Department of Transport, Energy and Infrastructure.

There are more detailed data available on accessibility of trains in Victoria against requirements in the Transport Standards. The Victorian Government Department of Infrastructure (DOI) reported the following level of accessibility at June 2006:

- Melbourne trains meet all requirements under the Transport Standards with the exception of requirements for signs (50 per cent of stock compliant) and symbols (50 per cent compliant); and
- for regional services, there is a larger degree of variation in accessibility with a proportion of rolling stock reportedly meeting requirements for doorways and doors (56 per cent), surfaces (79 per cent), handrails and grabrails (65 per cent), toilets (86 per cent) and controls (86 per cent). (sub. 71, p. 15).

Data on train accessibility indicate a high level of accessibility of train carriages (based on measures of physical accessibility), in excess of what is required in the Transport Standards by 31 December 2007. It is important to note, however, that all of these arrangements involve the provision of direct assistance to passengers with disability by staff members or carers. As a result, the experience of an individual passenger's ease of accessibility varies from day to day, depending on the knowledge and experience of the members of staff assisting them.

For example, some passengers (such as those with a mobility impairment) are unable to step up or down from a carriage to a platform, or vice versa. Accessibility for these passengers involves placement of a ramp that connects the platform to the carriage, so that the passenger can wheel him or herself, be wheeled by a carer or train staff or walk up the ramp. These ramps need to be manually deployed by the train driver, or another member of staff. Stakeholders identified a number of problems with these arrangements.

- Passengers in wheelchairs and mobility scooters need to rely on staff to remember which station they are disembarking at and deploy the ramp at that station. Participants at the hearings provided examples where people with disability sometimes needed to rely on other passengers to remind staff to deploy a ramp at a particular station.
- In the case of train travel in regional Victoria, passengers who are mobility impaired, but who do not use a wheelchair, are not permitted to walk across a ramp and into the train. This is due to a safety concern about using the ramp in this way. No other State reported this as an issue.
- Some people reported concerns about the gradient of ramps for assisted access, which is one in four, specified in the Transport Standards. This gradient is considered by some stakeholders to be too steep for the safety of the passenger being assisted in the wheelchair, and the staff member or carer providing the assistance.

In public hearings and written submissions, stakeholders provided information about instances where one or the other of the above problems had occurred. In addition, it was clear that while the 'every day' accessibility of trains was good, in situations where the trains broke down, the needs of people with disability were not always considered. For example:

- when maintenance work was being done on a train line, and chartered buses were substituted for the train, these buses were not always accessible to all passengers;
- where *ad hoc* announcements were broadcast through the carriages, these announcements were not always accessible to passengers who are hearing impaired; and

- two stakeholders at the hearing in Sydney referred to an instance they had heard of where a train had broken down on the Harbour Bridge. Passengers had climbed out of the train and abandoned it, but no arrangements were made for one of the passengers who was in a wheelchair, and who was unable to climb out of the train or to contact railway staff for assistance (Douglas Herd and Simon Darcy, Sydney Hearing Transcript).

Another issue that was noted by some stakeholders was the fact that the size of manoeuvring areas and allocated spaces on trains prescribed in the Transport Standards is based on the specifications of a standard size manual wheelchair (using Australian Standard 1428.2 1992). Many of the participants in the hearings noted that they either used, or knew of someone who used, motorised wheelchairs or scooters, which are much larger and heavier than manual wheelchairs (Box 2.1). A related point was that in South Australia, while allocated spaces were provided for passengers with disability, the signage for these spaces was not always visible or maintained. As a result, passengers with disability who wanted to use these spaces had to convince other passengers to move out of them, but were unable to demonstrate that they were entitled to these spaces.

Box 2.1**INCREASING USE OF MOTORISED SCOOTERS**

In public hearings and submissions to this review, stakeholders raised a range of issues around accessibility of public transport for people using motorised scooters. Issues were raised in relation to all modes of transport.

The two major issues reported as impacting on accessibility were that:

- the required space dimensions in the Transport Standards that define accessibility for mobility aids are based on wheelchairs. It was reported that many mobility scooters exceed these dimensions; and
- mobility scooters can be quite heavy, with some reported weighing over 100 kilograms.

The available data point to significant growth in the use of mobility scooters: the Australian Bureau of Statistics reports that between 1998 and 2003 there was a 78 per cent increase in the number of motorised scooters being used by the community. During this same period there was a corresponding six per cent decline in manual wheelchair use and a 23 per cent decline in electronic wheelchair use. The prevalence of concerns about accessibility to public transport by people using mobility scooters is likely to be due in part to the increase in their prevalence.

Source: Australian Bureau of Statistics (ABS), 1999; Australian Bureau of Statistics, (ABS) 2004.

Accessibility of infrastructure

The requirements in the Transport Standards indicate that accessible train infrastructure (that is, train stations) provides a person with disability with:

- accessible paths, stairways, ramps, under- and overpasses to stations;
- accessible signs for entries, exits, ticketing and amenities; and
- accessible maps, timetables and announcements at train stops.

Table 2.2 shows the extent to which train infrastructure in the States and Territories is accessible based on the requirements set out in the Transport Standards. Broadly speaking, both passengers with disability and public transport service providers and operators agree that the accessibility of train infrastructure has improved since the introduction of the Transport Standards.

Table 2.2

ACCESSIBILITY OF TRAIN INFRASTRUCTURE, 2007

State or Territory	Proportion of infrastructure reported accessible	
	Metropolitan	Regional
NSW	32% of CityRail stations are wheelchair accessible	93% of CountryLink stations are wheelchair accessible
VIC (2006)	Refer to Table 3.3	Refer to Table 3.3
QLD	36% of stations are wheelchair accessible without assistance 37% of stations are wheelchair accessible with carer assistance	No data available
SA	No data available	No data available
WA	39% fully compliant 44% partially compliant	No data available
TAS	n.a.	n.a.
NT	No data available	No data available
ACT	No data available	n.a.

Sources: New South Wales Ministry of Transport, 2007; sub. 50 p.7; Public Transport Authority of Western Australia, 2006

In NSW, while the accessibility of the stations or platforms is not complete, it is noted that the infrastructure that has been upgraded has been selected on a priority basis. In their submission, the NSW State Government notes:

Prioritisation for easy access upgrading is based on a number of factors, including station patronage, access to educational and medical centres, parking, bus services, shopping, tourism and whether the station is a rail interchange. As CityRail has targeted many higher patronage stations, approximately 70% of CityRail's passengers currently travel through an 'easy access' station. (sub. 90, p. 6).

Similar data for the other jurisdictions are not available. Table 2.3 provides more detailed data on the accessibility of metropolitan and regional train infrastructure in Victoria (this is the only jurisdiction where data are available to this level of detail).

Table 2.3

ACCESSIBILITY OF VICTORIAN TRAIN INFRASTRUCTURE WITH REQUIREMENTS IN THE TRANSPORT STANDARDS, JUNE 2006

Transport Standards Part	Percentage of stations that meet requirement		Compliance requirement by December 2007
	Metropolitan	Regional	
Access paths	15	40	25
Manoeuvring areas	70	99	25
Passing areas	75	89	25
Resting points	86	69	25
Ramps	23	37	25
Waiting areas	53	84	100
Boarding	96	94	25
Surfaces	64	65	1 st target 2012
Handrails and grabrails	76	30	1 st target 2012
Doorways and doors	88	81	25
Lifts	100	100	25
Stairs	35	64	25
Toilets	82	74	25
Symbols	98	98	100
Signs	98	100	100
Tactile Ground Surface Indicators	22	13	25
Alarms	100	100	100
Lighting	95	6	100
Controls	57	38	25
Furniture and fitments	100	8	100
Street furniture	64	93	25
Gateways	100	97	1 st target 2012
Payment of fares	100	100	1 st target 2022
Hearing augmentation ^(a)	100	14	100
Information	96	100	100
Food and drink services	28	40	100
Belongings	100	NA	100
Priority seating	100	NA	100

(a) Hearing augmentation is deemed met either with visual information or direct assistance from a driver.

Source: sub. 71, p.15.

For people with a vision or hearing impairment, an important factor in supporting accessibility of train infrastructure is accessible timetable information. Existing examples of providing accessibility to this information are via the use of accessible websites or TTY technology.

To facilitate accessibility for hearing impaired passengers, there are examples of work to install hearing loops at train stations. However, these efforts have faced significant technical difficulties in achieving sufficient quality of service within the electrified environment. A hearing loop service has been trialled by Queensland Rail, though not fully implemented. New South Wales provides hearing loops at 81 per cent of CityRail booking offices, but, for the reasons noted above, not on train platforms (New South Wales Ministry of Transport 2007). In Victoria, the Transport Standards requirement for hearing augmentation is being met by using visual information or direct staff assistance rather than hearing loop technology.

As with the accessibility of trains, many jurisdictions are mostly compliant with the provisions from which they are not exempted. These data alone do not provide the full picture of accessibility in terms of the experience of public transport users. In particular, there are concerns in all jurisdictions about the accessibility of stations and platforms for people with a vision impairment. In this regard, stakeholders reported a number of issues.

- In some locations there are a lack of TGSIs on platforms, particularly in regional train stations. For example, a participant at the Bendigo hearing for this review reported people falling from platforms due to a lack of TGSIs to warn them that they were approaching the edge of the platform (Jim Dunn, Bendigo Hearing Transcript).
- There are instances of inappropriate installation of TGSIs. Several of the participants at the hearings noted that obstacles — such as posts or poles — are present along the lines that the TGSIs were laid out.
- In some locations there is a lack of warnings or indicators to let people who are vision impaired know when they are approaching an obstacle that is at head height, and not detected by their cane, or by their dog — for example, the underside of stairs, or public telephones mounted on pedestals.

It is important to note that train infrastructure, particularly older stations in capital cities, are amongst some of the oldest transport infrastructure. Upgrading rail infrastructure therefore presents challenges in achieving accessibility, partly due to heritage issues, but also due to the significance of upgrades needed to comply with aspects such as the width of pathways, doorways and doors and the placement of ramps (which at a gradient of 1 in 14, require a large footprint to be installed).

Regional trends in accessibility

In general, stakeholders noted that the accessibility of both trains and train infrastructure was better in metropolitan areas than in regional areas. This observation could be the result of one or more of the following reasons:

- regional train journeys take longer on average than metropolitan train journeys, which increase the need for accessible food and drink, and accessible toilets for passengers with disability during the train journey; or

- priority on changes to facilitate improved accessibility being focused in metropolitan areas because of the greater population density.

A related point is that there is less transport infrastructure in regional areas generally, compared to metropolitan areas. For example, at the hearing in Alice Springs, one of the participants mentioned that there were no platforms for The Ghan in either Darwin or Alice Springs, and that she was aware that passengers in wheelchairs or scooters are being lifted onto the train using a cherry picker.

In addition, while the trains and the infrastructure may be physically accessible, some of the experiences related by passengers with disability in the hearings and in the submissions indicate that the quality of the journey varies between metropolitan and the regional services. For example, in Victoria, it was noted that a passenger in a wheelchair who used a regional train service would need to make the journey positioned next to the toilets — an area which was near the join between one carriage and the next, where heating or air-conditioning were not the same as the rest of the carriage, and where they would be required to move if other passengers wanted to use the toilets. Additionally, in this position, there are no seats nearby for anybody accompanying the passenger in the wheelchair to sit.

Nevertheless, it was also noted that while there were still aspects of regional train travel that could be improved, transport users and operators agreed that the accessibility of regional trains and their associated infrastructure had improved since the introduction of the Transport Standards.

Potential impact on patronage

The views of transport users differ from the views of transport providers and operators in relation to whether or not patronage has increased as a result of the Transport Standards. While transport providers say that patronage overall has increased, they clarify that this could be because of increased accessibility, but also because of the rising cost of petrol, traffic congestion and a range of other factors. In their submission to this review, Queensland Transport note:

Queensland Transport has no data about increases in patronage as a result of the increased accessibility. From public consultations undertaken in regional Queensland in 2006, it was confirmed that accessibility issues prevent the use of public transport by the majority of people with disability. It is anticipated then that removing some of these barriers, coupled with campaigns to raise awareness of this, will encourage people with disability to exercise their rights. (sub. 50, p. 11)

The public transport users who attended the hearings, or who sent in submissions to the review, were also uncertain about whether or not the Transport Standards had led to increased patronage. Rather than highlight the removal of barriers to accessibility, transport users tended to emphasise the ‘whole of journey’ aspect, noting that it was likely that a significant increase in patronage would occur only when each accessible part of the journey is linked together. One of the transport users at the hearing in Adelaide noted that services were not connected, and that ‘we’re in this period in between, where...you’re enticed to go out and take part in it, but then you’re cut off half way’ (Ray Scott, Adelaide Hearing Transcript, p. 34).

2.4 Accessibility of tram travel

Accessibility of tram conveyances

Issues around accessibility of tram services are similar to those of trains, though they also share some similarities with bus travel (discussed in chapter 4). The requirements in the Transport Standards indicate that an accessible tram conveyance is one where people with a disability can:

- board the tram safely from the tram stop (including using some form of boarding device);
- travel on the tram safely in an allocated space (where needed);
- access information on the tram that is available for other passengers; and
- get off the tram safely at their desired stop (including being able to notify the operator where they require assistance to get off).

Given the limited provision of tram travel in Australia, most of the information about accessibility of trams relates to the tram service in the Melbourne metropolitan region. There was also a small amount of information provided on the accessibility of the one tram service in Adelaide.

The Victorian Department of Infrastructure (DOI) in their submission to this review reported that 21 per cent of trams in metropolitan Melbourne are low-floor accessible trams, which are accessible for people with a mobility impairment at platform stops (but not at other stops). These low-floor trams also comply with other accessibility requirements in terms of providing appropriate allocated spaces inside the trams, access paths and manoeuvring areas to the allocated space (sub. 71, p. 15). Table 2.4 provides data on accessibility of Melbourne trams against the relevant Parts of the Transport Standards.

Table 2.4

REPORTED COMPLIANCE OF MELBOURNE TRAM CONVEYANCES WITH REQUIREMENTS IN THE TRANSPORT STANDARDS, JUNE 2006

Transport Standards Reference	Percentage of trams that meet requirement	Compliance requirement by December 2007
Access paths	21	25
Manoeuvring areas	21	25
Ramps	21	25
Boarding	3	25
Allocated space	21	25
Surfaces	100	1 st target 2012
Handrails and grabrails	100	1 st target 2012
Doorways and doors	100	25
Stairs	21	25
Symbols	21	100
Signs	100	100
Lighting	37	100
Controls	100	25
Payment of fares	100	1 st target 2022
Hearing augmentation ^(a)	13	100
Information	100	100
Priority seating	100	100

(a) Hearing augmentation is deemed met either with visual information or direct assistance from a driver.

Source: sub. 71, p.15.

At public hearings for this review, stakeholders acknowledged the introduction of new low-floor trams, though reported frustration at the low level of compatibility of these trams with tram stop infrastructure. For a person in a wheelchair, accessing a tram requires both a low-floor tram on the route and a platform stop.

During the review, concerns were also raised about the accessibility of trams for people who are vision impaired. The comments note a lack of consistency in accessibility across the fleet. The Blind Citizens Australia submission to this review commented that:

There are different trams operating within the Melbourne public transport system. Some have well contrasted poles, seats, buttons and handgrips while others do not. (sub. 12, p. 14)

This view was supported by the Australian Federation of Disability Organisations, who made the following comment in their submission:

For instance, many tram stops in Victoria now have tactile ground surface indicators and audible announcements. Yet the trams themselves are not all outfitted with clearly contrasting poles and buttons, making that part of the trip less safe and accessible than it should be. (sub. 12, p. 3)

The tram service in Adelaide is serviced by a fleet of low-floor trams, which are fully compliant with requirements in the Transport Standards. Comments from stakeholders on this service focused on the need for compatibility of accessible trams with accessible stops, as not all stops along the tram route are accessible for people in wheelchairs.

Accessibility of infrastructure

There are considerable challenges in providing accessible infrastructure for tram services. These challenges relate primarily to the need for upgraded platform stops for low-floor trams in order to provide accessibility for people who are mobility impaired and use a wheelchair. As noted previously, the fleet of low-floor trams used on the Melbourne tram services are only accessible for people in wheelchairs at newly designed platform stops. These stops provide an access path from the footpath to the platform stop, which then provides a level entry into the tram. Providing accessible tram infrastructure for people using wheelchairs thus requires a major upgrade of tram stops in Melbourne and significant roadworks.

DOI reports that there are currently 180 accessible platform stops on the Melbourne tram network, which is around 10 per cent of all tram stops. These accessible platform stops are concentrated along 11 routes of the network, with the highest number of platform stops along route 109 (22 stops) and route 70 (eight stops). Across the network, DOI estimates that boarding onto a low-floor tram from an accessible stop is possible in approximately three per cent of services. Further upgrades to tram stops are continuing, though they are logistically difficult on routes where trams are accessed in the middle of busy roads.

People with disability recognise that accessibility of trams has improved since the introduction of the Transport Standards. One stakeholder cited the upgrades to tram infrastructure along Collins Street in the Melbourne CBD as an example of a positive improvement to transport accessibility in the last five years. (sub. 18, p. 3)

Aside from issues of accessibility of low-floor trams for people in wheelchairs, there have been upgrades to tram stops including improved announcements about waiting times (sub. 11, p. 8). There has been slower progress with upgrades to infrastructure in relation to TGSIs (seven per cent of stops with TGSIs at June 2006).

Table 2.5

REPORTED COMPLIANCE OF MELBOURNE TRAM INFRASTRUCTURE WITH REQUIREMENTS IN THE TRANSPORT STANDARDS

Transport Standards Reference	Percentage of stops that meet requirement	Compliance requirement by December 2007 (%)
Access paths	87	25
Manoeuvring areas	79	25
Passing areas	79	25
Ramps	100	25
Waiting areas	100	100
Boarding ^(b)	7	25
Allocated space	89	25
Surfaces	87	1 st target 2012
Handrails and grabrails	100	1 st target 2012
Symbols	100	100
Signs	100	100
TGSIs	7	25
Street furniture (seats)	100	25
Payment of fares	100	1 st target 2022
Hearing augmentation ^(a)	100	100
Information	100	100

(a) Hearing augmentation is deemed met either with visual information or direct assistance from a driver.

(b) Boarding refers to the compatibility of an accessible tram at a platform stop (i.e. the proportion of services where boarding is available).

Source: sub. 71, p.15.

Impact of accessibility on patronage

Feedback from public transport users on tram accessibility focused primarily on the compatibility of trams with tram infrastructure. There is currently a low level of compatibility, with only a small number of services combining both the low-floor trams and accessible platform stops. Many of the stakeholders commenting on the accessibility of trams at public hearings reported that the current level of accessibility is not high enough to have made a significant difference to transport usage for many people with disability (in particular compared with the level of accessibility of trains and buses in Melbourne).

2.5 Overall achievement of accessibility to date

Overall, in the period under review there has been a significant level of activity directed at increasing the accessibility of train travel for people with disability. On the information available, the accessibility of the train carriages is expected to exceed the outcomes expected by 31 December 2007. It is noted that access to train carriages often depends on ramps being manually deployed by the train driver, or another member of staff and that stakeholders identified a number of problems with these arrangements.

However, the accessibility of the train infrastructure is less than expected. Particular areas of concern are in relation to aspects such as TGSIs, hearing augmentation and accessible announcements made onboard the trains — aspects that affect the accessibility of trains for passengers with hearing or vision impairment. In general, stakeholders noted that the accessibility of both trains and train infrastructure was better in metropolitan areas than in regional areas.

In relation to trams, the proportion of the total tram fleet in Melbourne that is low-floor is close to the level required by the Transport Standards by 31 December 2007. However, in two critical areas, tram infrastructure will have lower levels of accessibility than required by the Transport Standards by 31 December 2007. This is in relation to: boarding, which impacts on the accessibility of tram stops for people who are mobility impaired, and the installation of TGSIs at tram stops which impacts on people who are vision impaired.

Overall, the difficulties in meeting the targets for tram infrastructure accessibility mean that the current accessibility of tram services, particularly for people who are mobility impaired and use a wheelchair is very limited.

Chapter 3

Accessibility of taxis

Key findings

- It is estimated that in the period 2001 to 2007, the proportion of Wheelchair Accessible Taxis (WATs) in Australia's taxi fleet increased from around 7 per cent to 10 per cent.
- The data on taxi patronage by people with disability is limited. The available data suggest that the number of taxi trips being taken by people using wheelchairs or mobility scooters has been growing.
- Despite the growing size of the WAT fleet, the taxi industry is not expecting to be in a position to meet the Transport Standards requirement that response times for accessible vehicles be the same as for other taxis by 31 December 2007. In public hearings, many examples were cited of passengers regularly experiencing very long response times.
- Concerns were raised about the current approach of specifying the wheelchair 'footprint' in the Transport Standards. This footprint is used when modifying vehicles for use as WATs. A number of examples were provided of WATs that could not accommodate passengers and their mobility aids even though the mobility aids did not exceed the dimensions specified by the Transport Standards.
- WATs fleets will be compliant with the Transport Standard requirement that all taxis have tactile taxi registration numbers on the exterior of passenger doors by 31 December 2007.
- There was no data available on which to base an assessment of changes in the accessibility of taxi infrastructure due to the introduction of the Transport Standards.

3.1 Introduction

Taxis provide a door-to-door, on-demand service and represent the closest comparator to private transport offered by the public transport sector. It is a public transport service of particular importance to people with disability, especially those who are unable to access mass transport. From the early 1980s, Australia's taxi fleet has included Wheelchair Accessible Taxis (WATs). WATs represent one of the earliest efforts to make public transport accessible to people with disability. Many people with disability, such as people with a vision or hearing impairment, access conventional taxis. The Transport Standards apply specifically to WATs and therefore these are the focus of the analysis in this chapter.

There are two relevant parts to the taxi industry — radio networks and co-operatives that provide booking services, and the taxi service itself. Taxi drivers are either owner-drivers, individuals who work for a taxi owner on a profit share arrangement, or individuals who work for a larger taxi fleet. This structural disjunct makes it difficult to apportion responsibility for meeting the Transport Standards. As noted by the Australian Taxi industry Association (ATIA), radio networks and cooperatives have no power to compel taxi drivers to 'accept a wheelchair job that is offered via the dispatch system' (sub. 51, p. 3). This is because taxi drivers are not employees of the radio networks or co-operatives.

State and Territory motor registry authorities² license and inspect WATs. In all States and Territories, the regulated fee for WAT leases / licences is lower than the fee for a regular taxi licence. Some State and Territory governments also offer incentives such as a lift fee or a bonus, for transporting people with mobility aids. WAT licence conditions throughout Australia permit carriage of other passengers when not engaged in bookings for wheelchair users.

There is evidence to suggest that WATs are more likely to be operated by owner-drivers, rather than being part of a larger fleet. For example in Victoria, owner-drivers operate the majority of WATs, but account for only 40 per cent of the licence owners for the Victorian taxi fleet as a whole (Victorian Department of Infrastructure 2007).

3.2 Requirements under the Transport Standards

The Transport Standards include specific requirements intended to enable taxi operators and providers to remove discrimination from taxi services and infrastructure by making these public transport services accessible for people with disability. These requirements apply to both the conveyance (that is, the vehicle itself) and the infrastructure that supports the transport service (including booking services and ranks).

The specific Parts of the Transport Standards that apply to taxis and taxi infrastructure are set out in Table C.3 in Appendix C. In relation to the WAT itself, the Transport Standards set requirements for the following aspects:

- minimum size of the spatial footprint on the vehicle floor and the minimum head room in the allocated space;
- minimum height of the doorway used to accommodate a wheelchair;
- the use of boarding ramps, including the width of ramps, gradient of ramps and situations in which direct assistance should be provided;
- payment of fares; and
- tactile taxi registration numbers.

In relation to taxi infrastructure, the Transport Standards have requirements for:

- access paths, manoeuvring areas, ramps, passing areas, resting points, waiting areas and the use of Tactile Ground Surface Indicators (TGSI) at designated areas where taxis are being accessed (such as taxi ranks);
- boarding points where people get into taxis;
- safety aspects around taxi infrastructure, including surface areas, lighting, handrails and grabrails;
- signage designating taxi areas, as well as the use of symbols and the provision of information on services; and
- booking services.

² In Victoria taxi licensing is conducted by the Victorian Taxi Directorate

By 31 December 2007, the Transport Standards compliance timetable specifies that:

- response times for WATs are to be the same as for other taxis. (It should be noted that there is no requirement in the Transport Standards that WAT services comprise a percentage of the overall fleet for a region.);
- taxis have tactile taxi registration numbers on the exterior of passenger doors;
- taxi ranks comply with the requirements for lighting, signs, and information; and
- 25 per cent of taxi ranks comply with the requirements for TGSI's; resting points, and ramps.

The requirements in the Transport Standards indicate that an accessible taxi service and infrastructure will provide for people with disability to:

- readily convey their need for a taxi — this can be by booking a taxi over the phone, using a Teletypewriter (TTY), in some cases by Short Message Service (SMS), or ordering a taxi online. It may also be by accessing a taxi at a rank or by hailing a taxi on the street;
- have the same response time between booking and accessing a WAT as for other taxis;
- get into the taxi — this is primarily a concern for people who are mobility impaired and who use a mobility aid such as a wheelchair or motorised scooter; and
- travel safely — this includes being able to confirm the taxi registration number, being secured appropriately during the journey, safely using wheelchair lifts or ramp, and having confidence in the validity of the fare charged.

3.3 Measures of taxi accessibility

As noted above, the Transport Standards compliance timetable specifies the performance measure that average response time for WATs should be equal to the average response time for all taxis. The limited data on this measure is presented below and problems with the measure are discussed. However, there are more complete data on the number of WATs by State and Territory. While this is a measure of inputs, rather than the performance outcomes specified in the Transport Standards, we note that the number of WATs available will be a key factor impacting on response times.

Response times of WATs

In public hearings across the nation WAT users consistently reported that response times for WATs are not the same as those for other taxis. This view was supported by the Australian Taxi Industry Association in their submission:

The Australian Taxi Industry has used, and will continue to use, its best endeavours to provide the fastest possible response for WAT bookings. However, notwithstanding all of the industry's considerable efforts directed to achieving the DSAPT's target for WAT response times (i.e. that they be the same as those for other taxis) the industry by and large remains non-compliant. (sub. 51, p. 3)

People with disability report large variations in response times for taxis by region. Participants at the Sydney public hearings for this review reported that some parts of the city are ‘blackspots’, where it is very difficult to access a WAT. WAT response times can also vary greatly by time of day. Several hearing participants reported difficulty in accessing a taxi service during school pick-up and drop-off periods because all, or nearly all, WATs were engaged with the transportation of school children. There are some indications that WAT response times are short in some regions. At the public hearing in Dubbo, Dubbo Radio Cabs reported that the average response time for WATs in Dubbo was comparable with the response times for conventional taxis.

There are no data that allow a robust comparison of WAT response times to other taxis. The only data available to this review are from the South Australian and New South Wales Governments. The South Australian Department of Transport, Energy and Infrastructure reports that 96 per cent of WAT bookings in June 2007 had a response time of less than 30 minutes. Unfortunately, there is no comparable information for conventional taxi response times (South Australian Department of Transport, Energy and Infrastructure 2007). The New South Wales Government reports in its submission that the average response time for WATs booked through the *Zero 200*³ booking service in Sydney is 53 per cent longer than for a standard taxi service. This figure does not reflect response times for all WAT journeys as many bookings are made directly with a driver (sub. 90, p. 9).

It was noted in a submission on the Draft Report that response times for all taxis were reported to the Queensland Government as an operating requirement. Previously, some of this information for a specific region has been made available in response to a freedom of information request (sub. DR2, p. 1). More comprehensive data through this avenue was not available for this review.

Supply of WATs

While there are limited data available on WAT response times, data on the number of WATs can serve as an indicator of the capacity of WAT services.

An audit of submissions made to the AHRC’s *Wheelchair Accessible Taxi Inquiry* in 2001 suggests that WATs comprised approximately seven per cent of Australia’s taxi fleet at that time. A rough estimate of the proportion of WATs in the national taxi fleet at 2007 is available by aggregating individual State and Territory data (see Tables 4.2 to 4.7). This suggests that in 2007, WATs accounted for ten per cent of Australia’s taxi fleet.

Table 4.1 outlines the proportion of WATs by State and Territory in 2001 and in 2007.

³ The Zero 200 booking service is a booking service specifically for WAT vehicles.

Table 3.1

PROPORTION OF WATS IN STATE AND TERRITORY FLEETS — 2001 AND 2007

State or Territory	2001 (%)	2007 (%)
New South Wales	5.4	9.9
Victoria	6	8.1
Queensland	10	15.2
South Australia	7 ^(a)	7 ^(a)
Western Australia	8 ^(a)	6.3 ^(b)
Tasmania	0	7.8
Northern Territory	4.9	18.8
Australian Capital Territory	9.4	5.2

Notes: (a) for the metropolitan fleet only. (b) data for 2007 is for the stateside fleet. Thus, it is not possible to directly compare the change between 2001 and 2007.

Sources: Human Rights and Equal Opportunity Commission (HREOC), 2001; New South Wales Ministry of Transport, 2007; Victorian Department of Infrastructure, 2007a; Queensland Department of Transport, personal communication, 7 September 2007; South Australian Department of Transport, Energy and Infrastructure, personal communication, 11 September 2007; West Australian Department of Planning and Infrastructure, 2007; Tasmanian Department of Infrastructure, Energy and Resources, 2007; Northern Territory Department of Planning and Infrastructure, personal communication, 10 September 2007; and Australian Capital Territory Department of Territory and Municipal Services, personal communication, 7 September 2007

The remainder of this section presents the available data on WATs as a proportion of taxi fleets in each State and Territory. Each discussion notes differences in the proportion of WATs in metropolitan and non-metropolitan areas and identifies specific initiatives or features of various taxi markets.

New South Wales

Table 4.2 identifies that in June 2007, the current proportion of WATs is higher in outer metropolitan, regional and rural New South Wales than it is for Sydney. A notable development in the Sydney taxi market is the 2006 launch of *Lime Taxis*, which employs drivers to operate a fleet of 52 WATs. This is in sharp contrast to the typical accessible taxi service, which is dominated by individual owner-operators.

Table 3.2

DISTRIBUTION OF TAXIS AND WATS IN NEW SOUTH WALES — 2007

Location	WATS No.	Total fleet No.	WATS as percent of total fleet %
Sydney Metropolitan	407	5033	8.1%
Outer Metro, regional and rural New South Wales	215	1247	17.2%

Source: New South Wales Ministry of Transport, 2007

Victoria

Table 4.3 outlines the current proportion of WATs for metropolitan, regional and country as at September 2007. The data shows that the more rural an area, the higher the proportion of WATs in the taxi fleet.

Table 3.3

DISTRIBUTION OF TAXIS AND WATS IN VICTORIA — 2007

Location	WATS	Total fleet	WATS as per cent of total fleet
	No.	No.	%
Metropolitan Melbourne	234	3673	6.4
Regional (Ballarat, Bendigo and Geelong)	31	234	13.2
Country (including outer-suburban)	103	639	16.1

Source: Victorian Department of Infrastructure, 2007a

Queensland

Table 4.4 outlines the current proportion of WATs for metropolitan, regional, and rural Queensland as at August 2007. Overall the percentage of the taxi fleet that is wheelchair accessible is in excess of 15 per cent or 476 WATs out of 3127 taxis across the State as at April 2007. Since 1998, the number of WATs in Queensland has increased by more than 100 per cent.

The Queensland government is actively engaged in increasing the number of WATs in small towns and communities. This support is via a \$4.5 million one-off funding initiative that is aimed at replacing conventional taxis with WATs in small towns and communities that currently have a taxi service but not a WAT (Queensland Government, 2007).

Table 3.4

DISTRIBUTION OF TAXIS AND WATS IN QUEENSLAND — 2007

Location	WATS	Total fleet	WATS as per cent of total fleet
	No.	No.	%
Brisbane metropolitan	254	1800	14.1
Regional	206	1141	18.1
Rural	16	186	8.6

Source: Queensland Department of Transport, personal communication, 7 September 2007.

South Australia

The regulation of taxis in South Australia means that good data are available for Adelaide. However, this is not the case for areas outside Adelaide because the South Australian Government does not licence taxis outside of the State capital. There is currently a fleet of 69 wheelchair accessible taxis operating in metropolitan Adelaide. A further 15 WAT licences are currently available for tender, with the tender process scheduled to conclude by the end of 2007. There are currently 920 conventional taxi licences in Adelaide, thus the percentage of WATs appears to be seven per cent. However, it is possible that WATs account for more than seven per cent of the fleet, as conventional taxi licences in Adelaide are not required to be attached to a vehicle (South Australian Department of Transport, Energy and Infrastructure, personal communication, 11 September 2007).

The South Australian regulatory arrangements for WATs support a high level of accessibility within the existing WAT fleet. Accessible taxis in Adelaide are booked via the Access Taxi Centralised Booking Service. This service operates in parallel with booking services for conventional taxis. The accessible taxi fleet is exclusively available to wheelchair and scooter users between 7am and 6pm and may be directed to provide services to clients using mobility aids if working after these hours.

Western Australia

Table 4.5 outlines the current proportion of WATs for metropolitan and country Western Australia as at March 2007. As of April 2007, there were 12 available licences for WATs in addition to those currently operating.

Table 3.5

DISTRIBUTION OF TAXIS AND WATS IN WESTERN AUSTRALIA —2007

Location	WATS	Total fleet	WATS as per cent of total fleet
	No.	No.	%
Perth Metropolitan	83	1398	5.9
Country Western Australia	33	447	7.4

Source: West Australian Department of Planning and Infrastructure, 2007.

Tasmania

Table 4.6 outlines the current proportion of WATs for the major centres in Tasmania as at August 2007. In 2004, the Tasmanian Government enacted legislation to create the Wheelchair Accessible Taxi Scheme. The legislation provided for the issue of WAT licences across Tasmania. Prior to the introduction of WATs a parallel service was offered by the Special Purpose Cab scheme. Special Purpose Cabs provided a taxi style service to wheelchair dependent people. There were approximately 20 vehicles across the State and they were in such high demand that users reported having to book a week in advance to gain access.

Table 3.6

DISTRIBUTION OF TAXIS AND WATS IN TASMANIA — 2007

Location	WATS	Recently available WAT licences	Total fleet	WATS as per cent of total fleet
	No.	No.	No.	%
Hobart	22	8	217	10.1
Launceston	9	5	96	9.4
Burnie	1	2	22	4.5
Devonport	1	2	23	4.3
Other areas	0	0	65	0

Source: Tasmanian Department of Infrastructure, Energy and Resources, 2007.

Northern Territory

Table 4.7 outlines the current proportion of WATs for the major centres in the Northern Territory in September 2007. Since 2001, the number of wheelchair accessible taxis in the Northern Territory has grown from nine out of a total fleet of 184 (4.9 per cent) to 27 out of a total fleet of 144 (18.8 per cent) in September 2007.

Table 3.7

DISTRIBUTION OF TAXIS AND WATS IN THE NORTHERN TERRITORY — 2007

Location	WATS	Total fleet	WATS as per cent of total fleet
	No.	No.	%
Darwin	19	102	18.6
Alice Springs	6	28	21.4
Nhulunbuy	1	4	25.0
Katherine	1	10	10.0

Source: Northern Territory Department of Planning and Infrastructure, personal communication, 10 September 2007.

Australian Capital Territory

There are currently 14 WATs in service in the ACT out of a total fleet of 267 (5.2 per cent) (Australian Capital Territory Department of Territory and Municipal Services, personal communication, 7 September 2007). In 2000, the release and uptake of new WAT licences increased the number of WATs in the Australian Capital Territory to 26. However, there are 12 available WAT licences that have been surrendered (Australian Taxi Industry Association, 2007). These licences are to be reissued through a ballot on 27 November 2007.

3.4 Accessibility of taxi infrastructure

Taxi infrastructure includes:

- taxi ranks; and
- taxi booking services.

There are little or no data on the accessibility of taxi ranks, nor was there much focus by stakeholders in the accessibility of taxi ranks. However, the following observations should be noted with regards to taxi ranks:

- people who require a WAT service do not use ranks because of the uncertainty surrounding the supply of WATs and the likely inaccessibility of the built environment around and at the rank;
- people with visual impairment reported difficulty with the patchy and incorrect use of TGSIs; and
- people with a hearing impairment and/or a speech impairment reported difficulties in booking taxis particularly if the booking service used voice recognition software.

As is the case with many other types of transport infrastructure, the responsibility for ensuring that taxi ranks are compliant with the Transport Standards falls largely within the purview of local government. Local governments and the local government associations that provided submissions reported confusion and concern about how to provide infrastructure that fulfils the requirements of the Transport Standards. For example, Newcastle City Council stated:

Technical information in the Standards is not specific enough (with interpretation often required) for people to be confident that what they build will be fully compliant and they will not be liable for possible litigation. (sub. 61, p. 1)

It was further noted by the Local Government Association of South Australia, that:

In the absence of a good practice standard example Councils are sourcing various examples and interpretations in an attempt to comply. This does little to provide a uniform approach and will prove to be a source of frustration users experience various standards or lack thereof of accessibility. (sub. 46, p. 2)

These comments are usually directed towards bus stop infrastructure but can also be taken as indicative of concerns surrounding the provision of accessible taxi ranks.

3.5 Regional trends in accessibility

Looking at WATs in Australia's capital cities, the proportion of taxis accessible for people with mobility aids ranged from a low of 5.9 per cent in Perth to a high of 18.6 per cent in Darwin. This suggests a high degree of variation in access to WATs in capital cities.

A characteristic of the data presented in Section 4.3 on the proportion of WATs in State and Territory taxi fleets is that in New South Wales, Victoria, Queensland and Western Australia WATs make up a higher proportion of non-metropolitan taxi fleets than they do in the metropolitan cities. While this is of note, it does not support conclusions about regional differences in the accessibility of taxis within these States.

3.6 Potential impact on patronage

There is limited information on the potential impact of the Transport Standards on the patronage of WATs.

- South Australia reports that patronage of their wheelchair accessible taxi fleet has risen from 13 012 trips in April 2003 to 16 441 trips in June 2007, although the data are indicative only as they include school services (South Australian Department of Transport, Energy and Infrastructure 2007); and
- Tasmania also reports significant growth in the use of taxis by passengers in wheelchairs or mobility aids. This information is from the taxi voucher scheme. It reports that there were 12 669 trips in 2004-05, when WATs were first introduced, and that this increased to 44 039 trips in the 2006-07. As noted earlier, there were significant changes in Tasmania's taxi industry in 2004 that have supported growth in the supply of WATs (Tasmanian Department of Infrastructure, Energy and Resources, personal communication, 13 September 2007).

Factors that impact on patronage

Data suggests that WAT numbers are increasing, though response times are still longer than for non-WAT taxis. The availability of taxis was not the only factor determining the accessibility of taxis. Stakeholders at public hearings identified a number of issues impacting on their ability to access taxis, including:

- WAT design;
- mobility aid standards, anchor points and safety measures; and
- driver training.

WAT design

The Transport Standards prescribe a footprint and an entry height required for a WAT, but not a three-dimensional space. This is problematic in some vehicles, where curvature of the back door means that a WAT can conform to the specifications in the Transport Standards, but not be accessible for an average sized wheelchair.

This problem was referred to in the People With Disability (PWD) submission:

Currently many wheelchair accessible taxis are using the footprint as defined in the Australian Standards. This however is only two-dimensional. PWD believes that instead of a footprint the notion of an envelope should be used for the Transport Standards. This would allow for wheelchair users who sit high in their chairs to be able to have the door of a wheelchair taxi close. This is currently not always the case. (sub. 29, p. 12)

Mobility aid standards, anchor points and safety measures

There has been a diversification in recent years of the types of mobility aids available including the adoption of a variety of motorised three and four wheeled scooters. As noted in Box 2.1, the available data point to considerable growth in the use of mobility scooters in the community. Mobility aids that move away from the dimensions and performance requirements for mobility devices defined by the Australian Standards (AS3695 and AS3696) raise a number of problems for taxi travel, including:

- exceeding the weight limit outlined in the Transport Standards of 300 kilograms combined for the mobility aid and the passenger;
- securing a passenger and their mobility device so that they are safe during travel; and
- being unstable during travel (this is particularly a problem for the three wheeled scooters).

Taxi providers reported the difficulty of enforcing a 300 kilogram weight limit for individuals when using ramps and lifts. There were multiple reports of WAT drivers allowing individuals with mobility aids that they believed exceeded the limit to access ramps or lifts — which is potentially dangerous for the individual and expensive for the WAT licence holder. A practical problem is that it is not possible for taxi drivers to verify the combined weight of a person and their mobility aid. Also, as demonstrated at the Dubbo public hearing, taxi drivers report not feeling sufficiently empowered to deny transportation of individuals with mobility devices that exceeded the weight limit.

You be the bus driver or taxi driver that tells the person, ‘you are overweight, we’re not going to carry you’ ... it doesn’t matter what the legislation says, you have got to be on the footpath and say, ‘no, I am not going to carry you’ and cop the abuse. You can’t do it. (Ian Roberts, Dubbo Hearing Transcript, p. 29)

Queensland Transport also noted the difficulty faced by taxi drivers in ascertaining if mobility aids were compliant with the Transport Standards.

Whilst the Transport Standards provide detail regarding the dimensions (relating to boarding devices for example, ramps, and wheelchairs and scooters able to be carried on public transport); stability requirements and manoeuvrability requirements of mobility aids on public transport, without any nationally consistent certification system, there is no way for bus/taxi drivers to ascertain instantly whether the aids comply with these requirements. (sub. 50, p. 33)

Both passengers and taxi drivers reported problems safely securing passengers travelling in their mobility device. WAT users both in the hearings and via submissions to the review cited multiple examples of taxi drivers who did not, due to either lack of knowledge or time, secure their passenger safely. Taxi drivers also reported difficulties securing individuals in mobility devices because of the time taken to do so and lack of standard anchor points available on the devices. People were particularly concerned about the safety of people who travelled in WATs by remaining seated in three wheel scooters. Even when the greatest care was taken, taxi drivers had no model of best practice to work from when securing people in non-standard vehicles.

Driver training

The standard of service and driver awareness of disability was also a concern for a number of review participants. At present all WAT drivers have some training on providing a service to people with disability. However many people with disability are able to use conventional taxis and, while all new taxi drivers receive training on providing services to people with disability, not all conventional taxi licence holders have received such training. A recent survey found that 20 per cent of taxi drivers in Melbourne had received disability-specific training (11 per cent of taxi drivers surveyed had WAT licences). The issue of disability-specific training for conventional taxi drivers was noted in the Australian Federation of Disability Organisations submission. (Victorian Human Rights and Equal Opportunity Commission 2007)

As there is no training for sedan drivers [conventional taxi drivers], people with guide dogs, manual wheelchairs and walkers are regularly refused access by drivers. (sub. 11, p. 14)

Additionally, concern was raised that some WAT drivers rarely carry people with disability and that they were therefore ill equipped to do so when required. An instance of a WAT driver being unable to operate the wheelchair lift was cited at the Adelaide hearing. It is difficult to ascertain the extent to which this is a widespread issue. Some States and Territories do monitor the number of wheelchair passengers carried through their taxi voucher schemes for example, NSW reports in its submission that it is increasing its efforts to comprehensively cross-reference Taxi Transport Subsidy Scheme trips with WAT registrations.

3.7 Overall achievement of accessibility to date

This chapter assesses the accessibility of WAT services and associated taxi infrastructure based on published and unpublished data from State and Territory Governments and information provided to this review in public hearings and submissions.

The available data indicates that in the period 2001 to 2007, the proportion of WATs in Australia's taxi fleet increased. Alongside the increase in the supply of WATs, there are data that point to an increase in demand for their services. Thus, despite the growth in the WAT fleet, both the taxi industry and consumers acknowledge that response times for WATs are not the same as those for other taxis and the taxi 'industry by and large remains non-compliant' (sub. 51, p. 3). That said, there are no consistent comparable data on taxi response times in Australia, with which a conclusive analysis can be conducted.

The growth in the proportion of WATs in the Australian taxi fleet is attributable to a number of factors, including the Transport Standards, government regulations and policy and consumer demand. Supportive State and Territory Government policies have had a significant impact on increasing the accessibility of taxi services for people with disability. Often, these policies go further than the requirements of the Transport Standards. Examples of the government policies that have been touched on in this chapter include the dedicated WAT service provided in Adelaide and the Queensland Government initiative to fund the introduction of WATs into country towns.

There are currently no data available on the accessibility of taxi ranks or booking services with the requirements of the Transport Standards. It is, therefore, not possible to determine their accessibility, or the impact of the Transport Standards in this regard.

Chapter 4

Accessibility of buses and coaches

Key findings

Buses

- Since the introduction of the Transport Standards there has been an increase in the use of accessible buses in metropolitan areas in most States and Territories. The available evidence indicates that accessibility is higher on metropolitan route bus services than on non-metropolitan services.
- Upgrading bus stops to meet the requirements in the Transport Standards requires a significant investment by local governments, State governments and service providers. As such, the requirements in the Transport Standards are unlikely to have been met for the first milestone period.
- Providers of bus stops are seeking greater guidance and assistance to fund the provision of accessible bus stops.
- People who are vision and / or hearing impaired identified that their access to bus services is limited due to the state of access paths and bus stops and the availability of general transport information in an appropriate format.
- General transport information continues to be difficult to access and it is likely that the outcomes anticipated by the Transport Standards for 31 December 2007 will not be met in a number of jurisdictions.

Coaches

- There was limited information provided by stakeholders on the level of accessibility of coach services and in coach services infrastructure.
- Information from major coach service providers indicates that a very limited proportion of their services have wheelchair access and that it is not at the levels required under the Transport Standards.

4.1 Introduction

Bus and coach services are an important part of the public transport system in all States and Territories. The Transport Standards establish requirements in relation to the accessibility of buses, bus infrastructure, coaches and coach infrastructure. Bus services include route bus services and school bus services provided for public use, whereas coach services are typically operated by private providers and are available on specific routes.

There are three main types of bus services in Australia:

- *metropolitan route bus services* that are typically provided by large, government-funded operators;
- *non-metropolitan route bus services* that are typically provided by smaller, private operators; and
- *dedicated school bus services* that are provided by both government-funded and private operators.

There are two types of coach services:

- *long distance coaches* that provide services between major centres (for example, between Sydney and Melbourne); and
- *tourist and charter coaches* that provide pre-paid travel to tourist destinations.

4.2 Requirements under the Transport Standards

The Transport Standards include specific requirements intended to require bus operators and providers to remove discrimination from bus and coach services and infrastructure by making these public transport services accessible for people with disability. Meeting these requirements should facilitate accessibility to bus and coach services for people with a mobility, vision and/or hearing impairment; to enable them to find and understand general information on bus and coach services, locate their stop, wait safely at a stop, board the bus or coach, travel safely and disembark at their preferred destination.

The Transport Standards apply to both the conveyance (that is, the bus or coach itself) and the infrastructure that supports the transport service (including bus and coach stops). The specific Parts of the Transport Standards that apply to buses and bus infrastructure are set out in Table C.4 in Appendix C.

In relation to the bus services and infrastructure, the Transport Standards set out requirements for the following aspects:

- adequate state of access paths, boarding ramps and other devices;
- signage and information; and
- the presence of TGSIs and priority seating.

By 31 December 2007, the Transport Standards compliance timetable specifies that the following should be in place:

- for bus and coach services:
 - full compliance for symbols, signs, alarms, lighting, hearing augmentation, information, booked services, food and drink services and priority; and
 - 25 per cent compliance for access paths, manoeuvring areas, passing areas, ramps, waiting areas, boarding, allocated space stairs, TGSIs, controls and street furniture.
- for bus stops:
 - 25 per cent of bus stops must be compliant with access paths, manoeuvring areas, passing areas, ramps, waiting areas, boarding, allocated space, surfaces, handrails and grabrails, stairs, symbols, signs, TGSIs, lighting, street furniture and information.

4.3 Accessibility of conveyance — bus services

Available information, and feedback from stakeholders, suggests that current levels of accessibility to bus services vary considerably depending on the type of bus service that is provided.

Metropolitan route bus services

Metropolitan route bus services in most States and Territories have become more accessible to people who are mobility impaired since the introduction of the Transport Standards. Table 5.1 provides data on the proportion of metropolitan route bus services that are accessible in each jurisdiction and the number of services available in some areas. It is important to note that there is no consistent format to report accessibility.

The measure that is typically reported by State and Territory governments is the proportion of the bus fleet that is accessible to people who are mobility impaired. On this measure, most States and Territories report that they are exceeding the level of accessibility required by the Transport Standards by 31 December 2007.

Table 4.1

ACCESSIBILITY OF METROPOLITAN ROUTE BUS SERVICES, 2007

State/Territory	Accessibility of services
NSW	776 accessible buses out of a total government fleet of 1790 vehicles (43 per cent accessibility) 320 accessible buses out of a total of 1336 private vehicles (25 per cent accessibility)
VIC	Over 50 per cent of metropolitan bus services are accessible
QLD	766 accessible buses out of a total government fleet of 1631 (47 per cent compliance)
SA	434 accessible buses out of a total government fleet of 734 vehicles (59 per cent accessibility)
WA	Over 25 per cent of metropolitan bus services are accessible
TAS	No information available
NT	23 accessible buses out of a total government fleet of 30 vehicles (77 per cent accessibility)
ACT	25 per cent of metropolitan bus services are accessible

Sources: sub. 90, p. 10; sub. 70, p. 3; sub. 50, p. 5; sub. 30, p. 1; sub. 81, p. 23 — confidential; sub. 91, p. 2 (confidential); sub. 89, p. 1; South Australian data unpublished data provided by the South Australian Department of Transport, Energy and Infrastructure.

Non-metropolitan route bus services

At public hearings in non-metropolitan areas, stakeholder comments were that route bus services in non-metropolitan areas remained difficult to access after the introduction of the Transport Standards.

There is less quantitative information on non-metropolitan route bus services than metropolitan services.

The Queensland Government identified that 55 per cent of regional State-funded bus services are accessible (sub. 50, p. 5.). The Victorian Government also estimated that government-funded non-metropolitan buses would achieve the compliance target (sub. 71, p. 15). However, in a number of other States and Territories, including Tasmania and the Northern Territory, non-metropolitan route bus services continue to have low levels of accessibility, below that which is required by the Transport Standards.

Information is not available on the level of accessibility of non-metropolitan route bus services in New South Wales, South Australia and Western Australia. Thus it is difficult to assess the level of accessibility to bus services in regional areas of Australia.

Several participants at regional hearings commented that, in their regions, people who are mobility impaired relied on taxi services over bus services because the proportion of low-floor accessible bus services was still relatively low, meaning the scheduling of these services was not convenient (Ms M Bowden, Launceston Hearing Transcript). This issue is reflective of the lower frequency of *all* bus services in regional areas.

At public hearings stakeholders commented that discussion about access to buses in non-metropolitan areas needs to be considered in light of the accessibility of public transport overall in particular regions: often there is little or no choice between different modes of public transport.

Dedicated school bus services

Dedicated school buses are excluded from 26 provisions of the Transport Standards. However, particularly in non-metropolitan areas, school buses are also an important part of the public transport network and were raised a number of times at public hearings. A number of stakeholders highlighted concerns with the exclusions provided for dedicated school bus services by the Transport Standards.

In some areas school buses are the only form of public transport outside of school times. Stakeholders reported concerns that the exclusion from the Transport Standards would mean that at some point in the future school buses may no longer be used as public transport in these areas or school buses will have to be made accessible regardless of their exemption from the Transport Standards. The exclusion of dedicated school buses from the Transport Standards is discussed in more detail in Chapter 8 of this report.

Impacts of the Transport Standards on route bus services

Although accessible route bus services have generally increased since the introduction of the Transport Standards, stakeholders raised a number of concerns. Stakeholders in all jurisdictions identified that, although the composition of the bus fleet includes more accessible buses, the outcomes in terms of accessibility have still fallen short of expectations. This was highlighted in the following observations:

- on some routes there are accessible services to a particular destination, but no accessible services on the return journey;
- on some routes there may only be one accessible service in the morning and one in the afternoon, limiting flexibility for people who are mobility impaired; and
- when accessible bus services breakdown they are not often replaced by another accessible vehicle. On routes where there may be only a few accessible services in a day, this further hinders access to public transport for people who are mobility impaired.

Further to these issues raised on the consistency of route bus services, stakeholders also identified the continued difficulties involved in using accessible route bus services, including:

- hydraulic ramps on route bus services designed to aid entry and exit for people with disability are often out of order, however, these buses still run on the same routes without the ramp being functional. As a result of this issue (which was raised in several jurisdictions), disability groups in Adelaide requested that manual ramps also be provided on all accessible route bus services (Office of Disability and Client Services, Adelaide Hearing Transcript); and
- some stakeholders highlighted that bus drivers were often unaware of how to use the disability access equipment on route bus services. One stakeholder identified that on a number of occasions they have had to inform the bus driver on how to operate the access equipment. However, some bus operators, including Metro Tasmania, provide driver training to improve the knowledge of drivers on providing access to people with disability (Metro Tasmania, Hobart Hearing Transcript).

Bus service providers also made comments about their experience implementing the Transport Standards. A small number of service providers identified that although accessible services have been increasing in line with the Transport Standards, some forms of disability equipment cannot be accommodated by current services, including large electronic wheelchairs and scooters. Some stakeholders also raised the weight of equipment as a problem when access ramps have weight restrictions.

4.4 Accessibility of infrastructure — bus services

The Transport Standards include three compliance items on the accessibility of bus and coach infrastructure, including:

- 25 per cent accessibility for bus stops and interchanges;
- 25 per cent accessibility to facilities in interchanges (including toilets) by 31 December 2007; and
- 100 per cent accessibility to general transport information. For people with a vision or hearing impairment, this information must also be provided in a format that can be understood (for example, large print format, Braille).

Access to bus services infrastructure was a major issue raised by many service providers, local governments and consumers. Stakeholders identified that there are significant problems across all jurisdictions with the lack of accessible bus stops. A number of stakeholders identified that in order to provide an accessible bus stop there must be an accessible footpath and kerb to enable safe boarding onto an accessible service. However, in metropolitan and non-metropolitan areas across the country the infrastructure that is required to facilitate accessibility is not available. For example:

- in most areas there may be footpaths on the way to the bus stop that are not accessible to people with mobility or vision impairment. In this instance, even if a compliant bus stop is provided, a person with a mobility or vision impairment may still not be able to access the bus service;

- in regional and remote areas, there may not be sealed roads, well-constructed kerbs or other infrastructure to allow a compliant bus stop to be built; and
- the height of bus stop platforms have a maximum requirement so that electronic ramps from bus services can be utilised appropriately. The height of bus stop platforms tends to be inconsistent and in some areas may be too high for an accessible bus service to allow a person who is mobility impaired to board.

Many stakeholders, in particular consumers and bus service providers, agreed that the current level of accessibility of bus services infrastructure is limited given these problems (and below that which is required by the Transport Standards). However, some jurisdictions (for example, Queensland and South Australia) identified that they had made financial investments to meet the requirements of the Transport Standards by the first milestone date.

Local governments who, in partnership with State and Territory governments are responsible for providing bus service infrastructure, also highlighted the problems in providing accessible bus service infrastructure. Several local government representatives highlighted that the Transport Standards do not provide technical design information that could assist local governments to provide accessible bus services infrastructure. For example, one stakeholder commented that no advice had been given on whether one or two wheelchair spaces should be allocated in a bus shelter (sub. 22, p. 3).

Local governments also raised some other issues, including:

- as a result of the lack of guidance from the Transport Standards, many local governments that have funding set aside to upgrade bus service infrastructure are unwilling to do so because they fear that the infrastructure may be deemed non-compliant;
- where local governments are smaller, with smaller budgets for bus services infrastructure, it is difficult to provide compliant infrastructure given the cost involved. As a result, non-compliance at 31 December 2007 is likely for a number of smaller local governments;
- a lack of guidance on the extent to which access paths are included in the Transport Standards. Currently the Transport Standards do not define where an access path to a bus stop ends and the remaining footpath begins. As a result, it is difficult in some areas to determine what is considered to be a compliant bus stop; and
- further to this point, there is some uncertainty about what is considered to be a bus stop upgrade and whether an upgrade will, in fact, deem the bus stop compliant.

Other issues were also raised by stakeholders on the level of access to bus service infrastructure, including:

- access to prepaid tickets. An important aspect of bus services is to purchase a ticket to utilise the service. In some metropolitan areas pre-paid bus services are being introduced (for example, in the inner suburbs of Sydney). One stakeholder commented that many ticketing outlets may not be accessible to someone with a mobility or visual impairment and this may also prevent access to bus services (Greg Killeen, Sydney Hearing Transcript, 19 July 2007; and sub. 76, p. 5);
- a small number of stakeholders also identified that loop systems required by some people with a hearing impairment to receive transport information, are not widely available within bus interchanges or on bus services; and
- one stakeholder, representing a group of people with a vision impairment, commented on the misuse of TGSIs at bus interchanges. However, it was acknowledged that the use of TGSIs was growing in number and installation was improving.

Access to general transport information

In addition to the accessibility of bus infrastructure, the Transport Standards include a compliance item for access to general transport information for people with disability. For people with a vision or hearing impairment this transport information must be provided in an appropriate format. The Transport Standards state that 100 per cent of general travel information must be accessible to people with disability by 31 December 2007.

Access to general transport information is of particular importance for people with disability because the travel arrangements for people with disability change on a regular basis, travelling on different routes and travelling on routes at different times of the day. Research on this travel behaviour was undertaken in Queensland, highlighting the need for greater access to travel information (Disability Council of Queensland, Brisbane Hearing Transcript).

A small number of jurisdictions have introduced a series of information sessions for people with disability to practice using accessible buses. These active demonstrations are aimed at improving confidence in the use of public transport by providing an opportunity to practice boarding, mobility of a wheelchair within the vehicle (for people with a physical impairment) and disembarking (sub. 89, p. 3).

However, stakeholders in a number of jurisdictions highlighted that general transport information, including timetables of accessible bus services and information at bus stops are not yet fully accessible. For example:

- timetables for accessible bus services are at times not available on the Internet, nor are they available in large print or other necessary formats for people with a vision or hearing impairment;

- bus stops that accommodate multiple buses without designated pick-up and set-down points for individual routes make accessibility difficult for people with a vision impairment as they may not be able to differentiate which bus they need to board. One initiative to address this issue is taking place in the Northern Territory — from July 2007, all public buses have been required to stop at any bus stop on their route where a person is waiting irrespective of whether it is hailed or not. Although this assists people who may not be able to hail a bus, it may not be a suitable solution in inner city bus stops that are frequented by multiple bus services, particularly at peak times (Buslink, Darwin Hearing Transcript and sub. 77, p. 7); and
- at bus interchanges, where there are many bus stops together, there are very few indicators for people with a vision impairment to know where they need to be, and also to know when the bus that they need to catch has arrived.

4.5 Accessibility of conveyance — coach services

On the information provided by stakeholders, the accessibility of coach services in Australia has improved in some jurisdictions, but for the most part it appears that accessibility has not significantly improved for a large number of private long distance coach services. There is no evidence, including comments from stakeholders, to suggest that efforts to improve accessibility of coach travel have progressed to the degree required in the Transport Standards. Some information was provided on Victorian and Western Australian government-funded intercity coach services suggesting that these services would be more than 25 per cent compliant by the due date (sub. 71, p. 15 and sub. 81, p. 23).

Stakeholders identified that in a number of jurisdictions accessibility of long distance coach services was limited, if not unavailable entirely. This issue of accessibility was noted for coach services between capital cities, and between major centres. Table 4.2 provides information about accessible services offered by some of the major coach operators.

Table 4.2

ACCESSIBLE COACH SERVICES – SAMPLE OF MAJOR COACH OPERATORS

Operator	Accessible Services
Greyhound	1 service, 2 buses, Brisbane to Toowoomba
Premier	An accessible service can be provided on 48 hours notice
Firefly Express	An accessible service can be provided on 48 hours notice
Murrays	No accessible services
V/Line	An accessible service can be provided on 24 hours notice
Country Link	An accessible service can be provided on 48 hours notice

Source: Direct enquiries to coach service staff.

Although there were only a few submissions received from tourist and charter coach providers, they were consistent on the issues that arise when providing accessible tourist and charter coach services. Coach operators in Queensland and the Northern Territory identified that there were very limited tourist and charter coach services that were accessible to people who are mobility impaired. One service provider highlighted that they would not be able to comply with the 25 per cent target by 31 December 2007.

A number of coach service providers identified that there was ambiguity in the Transport Standards in regard to the difference between the two types of coach services long distance coaches and tourist and charter coaches specifically. It was reported that it is unclear whether all compliance items apply to both coach service types. This uncertainty deterred them from advancing their levels of accessibility.

4.6 Accessibility of infrastructure — coach services

Transport Standards apply to coach interchanges. Many coach services use infrastructure such as petrol stations as set-down and pick up points. However, the extent to which the Transport Standards apply to infrastructure that is not directly owned and operated by coach operators is unclear.

The accessibility of infrastructure for coach services was not raised as a major issue in the public hearings or in the submissions received for this review. As a result there is not sufficient evidence to determine the level of accessibility to coach services infrastructure and comment on whether the level of accessibility will be in line with that required by the Transport Standards by the first compliance milestone.

4.7 Potential impact on patronage

There is insufficient evidence to measure whether the implementation of the Transport Standards has had an impact on patronage. This is because the Transport Standards include staged compliance and the level of compliance prior to the introduction of the Transport Standards is often unknown.

While there may be a link between improved accessibility of metropolitan route bus services and increased patronage, the reliability and compatibility of services will also dictate demand. One stakeholder in the Australian Capital Territory identified a key impediment to increased patronage being the lack of integrated accessibility: ‘part of an integrated journey includes reading a timetable, working out the fare, getting to the bus stop, even before you think about whether you can get on the bus’ (Disability Advisory Council, Canberra Hearing Transcript, p. 10).

4.8 Overall achievement of accessibility to date

This chapter assesses the accessibility of bus and coach services and associated infrastructure based on State and Territory compliance reporting and information provided to this review in public hearings and submissions.

The review has identified some good progress in improving accessibility of metropolitan route bus services in most States and Territories, in many cases to levels in excess of what is required by the Transport Standards. However, it appears that the level of accessibility of non-metropolitan route bus services is significantly lower than in metropolitan areas.

A number of stakeholders highlighted that the current level of accessibility and improvements to accessibility of route bus services cannot be solely attributed to the introduction of the Transport Standards. Many local governments have been increasing the number of accessible bus services over the last decade under State and Territory disability legislation and policy. For example, in Western Australia, accessible bus services have been continually updated for some time under the *Western Australian Disability Services Act 1993* (sub. 41. p. 1).

In addition to bus services, access to bus infrastructure was noted by many stakeholders as a major issue for the Transport Standards and it appeared likely that the level of accessibility achieved by 31 December 2007 would be lower than that of bus services. This is critically important because the capacity of people with disability to use bus services will often depend on having both accessible buses as well as accessible bus infrastructure — including accessible bus stops and information.

There was limited information provided by stakeholders on the level of accessibility of coach services and related infrastructure, suggesting that there have been relatively few changes within the coach industry that would support increased accessibility.

This chapter also considered accessibility of general bus and coach transport information to people with disability. Several stakeholders identified that information continued to be difficult to access in a number of States and Territories. This suggests that in some areas the level of accessibility required by the Transport Standards at 31 December 2007 will not be achieved.

There is some evidence indicating an improvement in accessibility of metropolitan bus services, although not all improvements in accessibility can be attributed to the Transport Standards. Slower progress has been made in relation to upgrading of bus stops, accessible general transport information and accessible non-metropolitan bus services. These problems are limiting the overall accessibility of bus and coach travel for people with disability.

Chapter 5

Accessibility of air travel and ferries

Key findings

Air Travel

- People with disability are able to travel by air, though with conditions applied to their ability to travel independently and in the carriage of mobility aids.
- These conditions are applied to varying degrees across airlines. Airlines with independent travel criteria report that these provisions are required to comply with CASA air safety regulations.
- Conditions on the carriage of mobility aids are a response to Occupational Health and Safety guidelines and limits on the hold capacity of aircraft. These limits affect people with mobility impairment who use large electric wheelchairs or scooters.
- Disability representative organisations contend that these policies have led to a decline in the accessibility of air travel since the introduction of the Transport Standards.
- Airlines disagree that there has been an across the board decline in accessibility, though they do acknowledge that service failures and human error contribute to individuals reporting problems in accessing air travel.
- The Transport Standards are currently silent on the degree to which such conditions on independent travel can be applied before discrimination occurs.
- This trend has been linked to the growth in the low cost segment of the air travel market, with new low-cost entrants placing greater conditions on travel than full service carriers.

Ferry Travel

- Assessing the accessibility of ferry travel relies largely upon State and Territory Government information. There was limited information provided by consumers in public hearings and submissions.
- In general, the assessment concludes that accessibility of ferry travel has improved and there has been good progress towards the compliance targets for 2007. However, accessibility varies between newer and older fleets of ferries and improved accessibility of ferries needs to be accompanied by improved accessibility of wharves, jetties and pontoons.

5.1 Introduction

Domestic air travel in Australia is available between all metropolitan centres, between metropolitan centres and regional centres, and between regional centres. Typically, larger metropolitan centres are serviced by the larger airlines (QANTAS, Virgin Blue and Jetstar), with smaller regional airlines servicing particular regions (such as Regional Express, Air North and Sky West). New entrant to the market Tiger Airways, runs select routes to metropolitan and regional centres.

Ferries as part of the public transport network, are primarily used in New South Wales, Victoria, Queensland and Western Australia in relatively small networks. In addition, there is a single ferry service between Darwin and Mandorah, a small community on the far side of Darwin Harbour. This service was not addressed in any of the submissions or hearings. There was very little data presented about ferries in the public hearings and submissions, including those from Governments responsible for ferries. Ferries are distinct from charter boat tours, which are not required to comply with the Transport Standards.

5.2 Requirements under the Transport Standards — air travel

In relation to air travel, the Transport Standards include specific requirements intended to enable airline and airport operators and providers to remove discrimination from their respective services and infrastructure by making these public transport services accessible for people with disability. These requirements apply to both the conveyance (that is, the aircraft) and the infrastructure that supports the transport service (including airports). Meeting these requirements should facilitate people with disability being able to access bookings and information, board and disembark the aircraft, access an appropriate seat, access in-flight announcements, information and services, travel safely and transport required disability aids without incurring an excess baggage charge.

The specific Parts of the Transport Standards that apply to air travel are set out in Table C.5 in Appendix C. In relation to air travel, including services and infrastructure, the Transport Standards set requirements for:

- boarding ramps or devices to assist people getting on and off the aircraft;
- components of the aircraft that assist people with disability, including the type of floor surface, the placement of handrails and grabrails, the size of doorways, and the use of automatic or power-assisted doors;
- the provision of information on the aircraft, including safety information and announcements about arrival and departure times for delayed services; and
- the provision of food and drink services and toilets.

The Transport Standards set requirements for the following aspects of air travel infrastructure:

- access paths, manoeuvring areas, resting points, stairs, lifts, ramps and passing areas that are used by people with disability to make their way into and around public transport infrastructure (such as airport terminals). This includes accessibility for people with a mobility impairment and people with a vision impairment;
- boarding points where passengers access conveyances, including the use of boarding devices;
- facilities such as waiting areas, toilets and luggage services;
- booking services and purchasing of tickets;
- timetables and maps;
- information provided at terminals, including through signage, the use of symbols, public announcements, electronic information boards, alarms and warnings; and
- other components of infrastructure that impact on accessibility, including lighting, doors and doorways, the safety of ground surfaces and the use of handrails and grabrails.

By 31 December 2007, the Transport Standards compliance timetable specifies the following for aircraft:

- 25 per cent compliance for ramps, boarding, allocated space, stairs and toilets; and
- 100 per cent compliance for symbols, signs, alarms, information, booked services, food and drink services and priority seating.

The physical accessibility requirements for aircraft under the Transport Standards do not apply to aircraft with less than 30 seat capacity, given the logistical and engineering constraints to providing assistance to people with disability in these narrow-bodied aircraft. In addition, lighting and public address system requirements in the Transport Standards do not apply to aircraft as these are prescribed in safety regulations.

For airports, the Transport Standards compliance timetable specifies that the following should be in place by 31 December 2007:

- 25 per cent compliance for access paths, manoeuvring areas, passing areas, resting points, ramps, boarding, allocated space, doorways and doors, lifts, stairs, toilets, TGSIs, controls, street furniture; and
- 100 per cent compliance for waiting areas, symbols, signs, alarms, lighting, furniture, hearing augmentation, information, booked services, food and drink services, belongings and priority seating.

Airports that do not accept regular public transport services are excluded from the Transport Standards.

It is unclear whether the Transport Standards apply to charter flights. A number of submissions noted that the Transport Standards do not explicitly exclude charter flights, but as limousines, hire cars and charter boats are excluded, operators of charter flights are operating on the basis that they too are excluded.

5.3 Accessibility of air travel

Accessibility of aircraft

The current level of accessibility of air travel is an area with highly polarised views amongst stakeholders. The Draft Report for this review reported that, while there are limits to accessibility for air travel, it was overall ‘generally accessible’ for people with disability. The Draft Report also noted, however, that air travel had made the slowest progress, amongst various modes of transport, in meeting the requirements in the Transport Standards. Comments received on the Draft Report from disability representatives did not agree that air travel was accessible, while airlines did not agree that they had made the least progress of any mode of transport. The lack of data on accessibility in this area means that such opposing views on the current level of accessibility remain unresolved.

Air travel has particular characteristics which differentiate it from other forms of public transport. As Qantas reported in comments on the Draft Report:

In comparison with other modes of transport, travel by air involves a lengthy and complicated process of travel whereby the passenger must book and purchase a ticket, arrive at the airport allowing sufficient time to check-in, pass through the security screening point, board the aircraft via the departure gate, disembark on arrival and retrieve baggage from the baggage carousel. (sub. DR45, p.9)

The Transport Standards were developed without significant input from the airline sector, the consequence being that the requirements in the Transport Standards do not fully reflect particular characteristics of air travel. An example of this is set out in Box 5.1 in relation to allocated space requirements.

Box 5.1

REQUIREMENTS FOR ALLOCATED SPACES ON CONVEYANCES

The Transport Standards set requirements for the minimum number of 'allocated spaces' on a conveyance. An allocated space is defined as 'three dimensional space that can accommodate a wheelchair or similar mobility aid'. In the Transport Standards, there is a requirement for conveyances to provide a minimum number of allocated spaces:

- For buses with more than 32 fixed seats, a minimum of two allocated spaces must be provided
- For buses with less than 33 fixed seats, a minimum of one allocated space must be provided
- For accessible taxis, a minimum of one allocated space must be provided
- For ferries, a minimum of 2 allocated spaces must be provided for the first 32 passenger places on a ferry. An additional 2 allocated spaces must be provided for each additional 100 passenger places
- For trains, at least 2 allocated spaces must be provided for each rail, tram or light rail car. Up to 8 allocated spaces may be consolidated in one car of a set. If different classes of travel are offered, allocated spaces must be provided in each class
- For aircraft, an operator does not have to provide an allocated space in an aircraft or coach if each passenger uses a fixed seat in the aircraft

These requirements do not apply to carriage of wheelchairs or similar mobility aids when not being used by an individual when travelling (i.e. when individuals transfer from their mobility aid to a fixed seat). There is therefore no guidance from the Transport Standards for service providers and people with disability as to whether there is a minimum 'allocated space' that must be provided for mobility aids on aircraft. Equally, the Transport Standards do not specify whether any limits per aircraft can be applied, though practicalities suggest that unlimited carriage requirements would not be appropriate. In relation to belongings, the Transport Standards state that 'disability aids (for example, equipment and apparatus including mobility, technical and medical aids) are to be in addition to normal baggage allowances'.

Source: Disability Standards for Accessible Public Transport 2002.

The experience of the first five years of implementation of the Transport Standards has been difficult for both airlines and people with disability wishing to access air travel. There are divergent views on how the requirements in the Transport Standards should be applied, and the extent to which such requirements take precedent over other legislated requirements. These issues complicate any measures of progress against the Transport Standards because of their impact on the travel experience of people with disability. These issues are discussed in more detail in Part C of this report. The following sections summarise information collected, which provides an indication of accessibility of air travel for people with disability during the review.

Progress in accessibility

As noted above, there are particular characteristics of air travel which make it more complicated than other forms of public transport. When travelling by air, people with disability may require a range of forms of assistance to complete their journey, including assistance at check-in, progressing through security screening, transferring onto the aircraft and disembarking. The degree to which such services are available to people with disability varies across domestic carriers.

In submissions to this review, Qantas emphasised the range of services and support that it provides for passengers who have a disability. There were positive reports from the hearings and submissions about factors that have improved accessibility to air travel for people with disability. These included the new ‘Eagle Lifter’ device used by some airlines to assist people with a mobility impairment into their seats. This device replaces the need for airline staff to lift passengers into and out of their seat.

There are two important areas where, with the Transport Standards providing no guidance, airlines have developed their own policies for people with disability:

- carriage of mobility aids; and
- independent travel criteria.

A review of publicly available information, and information reported to this review, has found considerable divergence in policies across airlines. Even within the Qantas Airlines Group, Qantas services and Jetstar services have different rules in relation to carriage of mobility aids. Box 5.2 provides details on these policies and Box 5.3 summarises current airline policies for independent travel.

Box 5.2

CURRENT AIRLINE POLICIES FOR CARRIAGE OF MOBILITY AIDS**Qantas**

All manual wheelchairs must fit within the size restrictions in the upright position (folded or unfolded). If the wheelchair fits within the size restrictions but not in the upright position, the wheelchair can only be carried if it weighs less than 32 kgs and the manufacturer has confirmed that the wheelchair can be stored and transported on its side. Otherwise, the wheelchair must fit within the size restrictions in the upright position to be carried.

Aircraft Type	Maximum Dimensions (in adjusted state)		
	Width	Height	Length
Boeing 737	100cm	84cm	125cm
British Aerospace 146	125cm	71cm	125cm
Bombardier Dash 8	85cm	130cm	115cm
Boeing 717	80cm	73cm	100cm

[^]Due to space limitations the F100 is not suitable for electric mobility aids.

Jetstar

No reported restrictions on size of mobility aids, though there is a policy to limit passengers with mobility restrictions to two per flight.

Virgin Blue

Airline policy limits sets the maximum size of a mobility aid that can be carried (in an adjusted state to:

Width = 100cm, Height = 84cm, Length = 125cm, Weight = 120kg

Electric mobility aids must be carried in an upright position. There is a limit of two electric wheelchairs/mobility aids that can be carried on any one flight (which Virgin Blue report is due to limits on carriage capacity on aircraft).

Tiger Airways

No reported restrictions on size, though policies limit 'mobility restricted' passengers to two per flight.

Source: Airline mobility aid policies found on airline websites (www.qantas.com.au, www.jetstar.com.au, www.virginblue.com.au, www.tigerairways.com.au).

Box 5.3

CURRENT AIRLINE POLICIES FOR INDEPENDENT TRAVEL**Qantas**

In certain circumstances, Qantas requires an escort or carer to accompany customers who are unable to care for themselves during a flight. An escort or carer may be needed if:

- the passenger is unable to self-toilet,
- the passenger needs or wants to eat and drink during the course of the flight but is unable to do so without assistance,
- the passenger will require medication during the flight but is unable to administer it themselves, or
- the number of passengers in a group travelling with an escort or carer exceeds Qantas Group cabin crew limits.

The escort or carer must be self-reliant, and mentally and physically able to assist the passenger with the following, if required:

- toilet and sanitary requirements both on the aircraft and on the ground,
- inflight and ground emergencies,
- carriage of carry-on baggage and/or equipment,
- medicating and medical procedures,
- food and beverage consumption,
- immigration and customs procedures, and
- boarding and disembarkation.

Jetstar

Generally the airline will not allow a person to travel without an Accompanying Passenger unless the person can travel independently, meaning that they can travel safely without assistance, supervision or both. However, Jetstar does provide limited special assistance services to accommodate customers who need to travel with a guide dog, hearing or mobility dog (only available for flights operated by Jetstar (JQ), require a wheelchair, are blind or vision impaired, are deaf or hearing impaired or require two seats. Jetstar report that they do not have the systems, staff or facilities required to assume responsibility for assistance and supervision.

Virgin Blue

Virgin Blue's independent travel criteria require passengers to be able to independently:

- reach for, pull down and secure an overhead oxygen mask (including fastening/unfastening the straps).
- put on a lifejacket.
- fasten/unfasten their own seatbelt.
- understand and respond to cabin crew directions, including directions about emergency procedures.

If a passenger is unable to perform these tasks without assistance, they are required to travel with a carer. In addition, if a passenger is unable to conduct the above tasks, but requires assistance transferring into an aircraft seat, weigh more than 130kg, they must arrange for an assistance person to help them transfer. This person does not have to travel with the passenger.

Tiger Airways

Passengers with a vision impairment must travel with a carer over the age of 18 years. Tiger will only be able to accept up to two reduced mobility passengers per flight, each of whom must be accompanied by another fare paying passenger, if they require assistance at the airport to board the aircraft. This limitation does not apply to reduced mobility passengers who are able to safely travel independently and do not require assistance using the aircraft steps to board.

Source: Airline travel policies found on airline websites (www.qantas.com.au, www.jetstar.com.au, www.virginblue.com.au, www.tigerairways.com.au).

The reported policies in the above Boxes highlight some important conditions on accessibility of air travel, which have the potential to limit the ability of some people with disability to travel. Accessibility without practical limits is not mandated by the Transport Standards. Requirements for other modes of transport place limits on what is required to accommodate the needs of people with disability (for example, by specifying allocated space provisions). The difficulty with air travel is that, in the absence of guidance from the Transport Standards or DDA, the reasonableness or otherwise of conditions imposed by airlines has not been determined.

Airlines report several operational, legal and regulatory reasons for conditions placed on air travel for people with disability. These include:

- a reported conflict between the DDA and Civil Aviation Safety Authority (CASA) regulations in several areas:
 - CASA regulations state that people with disability should not be seated in an aircraft where they could impede or hinder access to emergency exits. As such, some airlines do not allow people with disability to sit in exit rows despite passenger preference to be seated there for easier access.
 - Regulations for wearing seat belts and safety briefings. CASA regulations require airline staff and passengers to wear seat belts at certain times during a flight. Virgin Blue is concerned that in an emergency situation, should lifejackets or oxygen masks be required, it would be unsafe for cabin crew to remove their seatbelts to assist people with disability with safety equipment. As such, Virgin Blue requires that passengers be able to independently reach under the seat for a lifejacket, and fit a lifejacket and an oxygen mask, or travel with a carer. Further, CASA regulations require that passengers are provided with a safety briefing before take-off. Virgin Blue requires that passengers be able to understand and respond to directions from cabin crew, or travel with a carer. Virgin Blue has introduced independent travel criteria for people with disability to test the ability of passengers to travel without a carer.
 - Regulations governing the carriage of animals on aircraft. CASA prohibits the carriage of animals if they may adversely affect the safety of the aircraft. QANTAS (sub. 48, p. 3-5) is concerned that allowing assistance animals that are not sufficiently trained onto aircraft may jeopardise the safety and amenity of passengers and staff and breach CASA regulations.
- a reported conflict between the Transport Standards and Occupational Health and Safety requirements. This conflict emerges in two ways. First, airline staff may need to assist passengers with disabilities into their seats, including lifting. Some airlines are now requiring passengers to provide a person to assist in boarding only where that passenger weighs more than 100 kilograms. Second, airline staff may need to load mobility aids, which in some cases were reported as weighing in excess of 100 kilograms, into the hold of the plane; and

- difficulties in transporting mobility aids given their increasing size and weight. The difficulties include being able to physically fit large scooters into a luggage hold and accommodating aids in light of weight and space restrictions. The Regional Aviation Association of Australia (sub. 35, p. 4) noted that regulations governing maximum and minimum landing weights for the aircraft significantly restricted the capacity of small aircraft to carry heavy items. Further, accommodating heavy items restricts their ability to carry other passengers and their luggage.

Issues of consistency with other regulations and legislation are discussed further in Chapter 10 of this report. These issues notwithstanding, the varied application of conditions on travel indicates that each airline has a different interpretation of their legal requirements and/or there are other reasons behind these policies. Both Jetstar and Tiger Airways report that they do not have adequate staff resources to provide anything other than 'limited assistance' for people with disability.

Other information on accessibility

There is limited quantitative information available to assess the accessibility of aircraft conveyances for people with disability against the requirements in the Transport Standards. Queensland is the only jurisdiction that reports data on accessibility of air travel. In Queensland's most recent compliance reporting the assessment of aircraft accessibility was that the 31 December 2007 compliance targets relating to boarding, stairs, food and drink services and transport of belongings were more than 90 per cent achieved by March 2006. Standards relating to manoeuvring areas, symbols, alarms, information and booked services were reported as being between 50 per cent and 89 per cent in line with the 31 December 2007 compliance targets. The Queensland Government did not address air travel in its submission to the Review and it is unclear what progress has been made since March 2006.

Reported experiences in accessing air travel

At public hearings and in submissions, individuals and organisations representing people with disability noted a range of difficulties when accessing air travel. A common view was that air travel accessibility for people with disability has gone backwards over the last five years. This view is supported by the submission from the Public Interest Advocacy Centre in New South Wales (sub. 63, p. 25) that analysed 110 case studies from people with disability in relation to air travel.

The reasons for the reported decline in accessibility of air travel were related to a number of general points including:

- the decision of some airlines to refuse travel for a passenger with disability if there are already a number of passengers with disability on a flight. There were several reports of airlines refusing travel for passengers at the time of check-in due to the limit on the number of people with a disability on each flight having already been met. It was reported that this situation arose despite the airline being informed previously of the passengers' needs for special seating;

- airline information systems were reported as having difficulty managing information about special needs that passengers provided at the time of booking. The consequence is that airlines then need to make arrangements to accommodate special needs such as seating for people travelling with a guide dog or people who require the use of a wheelchair, at the time of check-in or boarding rather than prior to the flight; and
- airline staff being inadequately trained in assisting people with disability and using special equipment for people with disability such as harnesses and lifting devices.

In addition to these general points, some issues around accessibility of air travel were specific to a type of disability:

- a reduced ability to travel independently for people with a mobility impairment. In many public hearings, concerns were raised about airlines applying independent travel criteria inconsistently. For instance, in many cases people with a mobility impairment are restricted from travelling independently by some airlines but not others. These restrictions have been applied in the recent period, with people who had previously been able to travel independently now not able to;
- difficulties with transporting mobility aids such as wheelchairs and scooters. Limits on the size and height of mobility devices that they can carry on different aircraft due to the size of the entrance to the cargo hold. Further, some airlines now limit the weight and number of mobility aids that they will carry per passenger as luggage without excess baggage charges on a single flight. Some airlines are refusing to carry mobility aids over a certain weight and size due to occupational health and safety concerns for baggage handling staff;
- in addition, there were reports of airlines being unable to guarantee that a passenger's mobility aid would travel on the same flight as the passenger and one case was reported where a passenger's wheelchair was carried on a different flight to the passenger at the airline's insistence (sub.63, p. 42.);
- passengers with a mobility impairment reportedly being allocated seats that did not have armrests that lift up, despite requesting this seating. Flip-up armrests allow people with a mobility impairment to transfer to their seat from their wheelchair more easily and safely. Most aircraft have some seats with flip-up armrests; and
- dissatisfaction with boarding procedures adopted by airlines that required them to transfer from their personal purpose-built wheelchairs into airport wheelchairs at the time of check-in. People with a mobility impairment often cannot operate airport wheelchairs independently, or access airport facilities independently, including toilets. Passengers reported that procedures were not applied consistently and that sometimes they would be permitted to board independently, and other times were refused. The Public Interest Advocacy Centre (sub. 63, p. 35) considers that the principle of independent access for boarding (Transport Standards Guideline 8.2) should be upheld to allow passengers to maintain their independence as far as possible so that passengers can remain in their personal wheelchairs until the boarding gate, or their seat if possible.

There were also reported instances of people undertaking air travel who were:

- vision impaired and unable to access the in-flight emergency information because there were no Braille emergency information cards available; or
- hearing impaired and unable to access the in-flight emergency information provided using verbal safety announcements.

Accessibility of infrastructure

The accessibility of air travel infrastructure relates to a passenger's ability to access airport terminals and facilities, flight information within the airport, and services and exits at the destination airport. These issues were raised in the public hearings and in many of the submissions. The specific areas of concern raised by consumers were:

- airport terminals and facilities. Accessible taxis that have been booked to receive incoming people with disability are moved on if there are flight delays or delays with assisting the passenger to disembark;
- flight and security information within the airport. People with a hearing impairment experience difficulty accessing information at airports which is made by audible announcement only and not presented visually. In addition, security screening units emit an audible noise that people who are hearing impaired may not be aware of and do not know they need to pass through again; and
- services and exits at the destination airport. Meet and assist services at the airports are provided inconsistently and information is not communicated effectively so that people with disability often experience long waits for assistance to the gate, onto the aircraft, off the aircraft and to the baggage claim. There were reports of passengers missing their flights due to extended delays in getting assistance to the gate. Taxi drivers cannot assist passengers with disabilities into the terminal under new security conditions that require them to remain in their vehicle.

Airport bodies and airport operators also raised some issues with implementing the Transport Standards effectively. The Regional Airports Association of Australia (sub. 35, p. 5) notes that some people with disability do not provide advance warning that they require assistance or special arrangements as required under the booked services provisions in the Transport Standards (Part 28.1). There were also similar concerns raised about conflicts between CASA regulations and the Transport Standards as those raised by airlines. For example, the Mt Gambier and District Airport noted that the Transport Standards prescribe that resting points with seats must be provided on an access path if the distance exceeds 60 metres (Part 5.1) which conflicts with CASA regulations that the aircraft must be separated from any other object, other than an aerobridge, by a distance specified (Chris Nelson, Mt Gambier Hearing Transcript, p.4). Where passengers need to board from the tarmac such as in regional airports, strict adherence to the Transport Standards would also mean that seats would need to be provided on the tarmac.

As with aircraft conveyance, there are limited data available on current accessibility of airport infrastructure, which makes an assessment of progress against requirements in the Transport Standards difficult.

Regional trends in accessibility

The major air travel accessibility issue raised by stakeholders in regional areas was the accessibility of small aircraft. The type of aircraft that operates on a route service is a key determinant of accessibility to air travel for people with disability, particularly people with a mobility impairment. Small aircraft with fewer than 30 seats are excluded from some physical access requirements of the Transport Standards. In addition, charter flight operators consider that they are exempt and have not been upgrading conveyances. These exemptions affect the access of people with disability in rural and regional areas most significantly.

Accessibility can also vary depending on the group of aircraft that are required to comply with the Transport Standards. For people with a mobility impairment, larger aircraft (larger than 737s) are the most accessible as they can carry larger mobility devices, and boarding devices can be used more easily. Smaller aircraft have restricted accessibility for people with a mobility impairment, as they are often not able to fit larger mobility aids in their luggage hold. The smaller cabin space also limits the ability of staff to use boarding devices (such as the Eagle Lifter). These issues are particularly acute in regional areas, where the majority of flights are serviced by small aircraft.

Potential impact on patronage

There are no data to assess the potential impact of the Transport Standards on patronage by people with disability of air travel. On the basis of information provided in public hearings and submissions, it appears that the factors that have a positive impact on an individual's decision to use air travel include the introduction of the Eagle Lifter to facilitate better access to aircraft for people with a mobility impairment and favourable experiences of customer service generally. Equally, instances of poor customer service were reported and appeared to be a disincentive for people with disability to undertake air travel.

Passengers' negative experiences with air travel are likely to affect patronage. For example, there were many reports of mobility aids being damaged when carried as luggage. Also, people with disability presented a range of case studies where they considered that they had not been treated with the respect and dignity afforded to other customers. Although outside of the scope of the Transport Standards, the consequences of a mobility aid being damaged in transit, or of a person being treated with disrespect, are factors that are likely to affect decisions to travel.

Finally, some concerns were raised that new low-cost airlines generally have more restrictions on passengers with disabilities and as a result, people with disability are not enjoying the benefits of low-cost air travel in Australia to the same extent as the general population. For example, Tiger Airways, a recent entrant to the low-cost market, requires all people with a vision impairment to travel with a fare-paying carer, and people with a mobility impairment must travel with a carer and may be subject to fees for the use of boarding devices. Passengers with reduced mobility can travel independently, provided they can board the aircraft using the stairs without assistance from airline staff (Tiger Airways 2007).

5.4 Requirements under the Transport Standards — ferry travel

In relation to ferry travel, the Transport Standards include specific requirements intended to enable ferry operators and infrastructure providers to remove discrimination from their respective services and infrastructure by making these public transport services accessible for people with disability. These requirements apply to both the conveyance (that is, the ferry) and the infrastructure that supports the transport service.

Meeting the Transport Standards requirements should facilitate a person with a disability being able to board and disembark the ferry, access an appropriate seat, access on-board announcements, information and services, travel safely and transport required mobility aids. The accessibility of ferry infrastructure relates to a passenger's ability to access timetables and bookings, ferry terminals and pontoons, information within the terminal, and services and exits at the destination terminal.

The Transport Standards requirements apply to both the ferry itself and the infrastructure that supports the transport service (including the pontoons and wharves). The specific Parts of the Transport Standards that apply to ferry travel are set out in Table C.6 in Appendix C.

By 31 December 2007, the Transport Standards compliance timetable specifies the following for ferries:

- 25 per cent compliance for access paths, manoeuvring areas, passing areas, ramps, boarding, allocated spaces, doorways and doors, stairs, toilets, controls; and
- 100 per cent compliance for symbols, signs, alarms, lighting, furniture and fitments, hearing augmentation, information, booked services, food and drink services, belongings and priority.

By 31 December 2007, the Transport Standards compliance timetable specifies the following for ferry infrastructure:

- 25 per cent compliance for access paths, manoeuvring areas, passing areas, resting points, ramps, boarding, allocated space, doorways and doors, lifts, stairs, toilets, TGSIs, controls, street furniture; and
- 100 per cent compliance for waiting areas, symbols, signs, alarms, lighting, furniture and fitments, hearing augmentation, information, booked services and food and drink services.

5.5 Accessibility of ferries

Several individuals and organisations representing people with a mobility impairment reported in their submissions that access to ferry conveyances and infrastructure had improved, particularly in Western Australia and Queensland through upgrading of ferry pontoons, new tidal hoists and loading platforms to assist with boarding and disembarking.

Compliance reporting from the States that have ferries also indicates solid progress towards the accessibility targets for 31 December 2007:

- in New South Wales there are 32 ferries in Sydney and Newcastle, and all are accessible via direct assistance, however only 46 per cent of commuter wharves in Sydney are accessible via direct assistance. There has been no change to the Sydney Harbour commuter wharves since May 2003. Twenty-two of Sydney's 50 commuter wharves are owned by local governments, who have found it difficult to improve accessibility. As such, all wharves in Sydney Harbour are being progressively transferred to the New South Wales Government. Both commuter wharves in Newcastle are accessible via direct assistance. The New South Wales Government does not report on progress against the compliance targets for individual parts of the Transport Standards (New South Wales Ministry of Transport 2007);
- in Queensland as at March 2006, compliance targets were more than 90 per cent met for the majority of areas of the Transport Standards relating to ferries and ferry infrastructure. In three areas; toilets, hearing augmentation, and information, only between 50 and 89 per cent of the compliance requirement was met for infrastructure and conveyances respectively. In addition, another seven standards were also only 50 to 89 per cent met for either infrastructure or conveyances (HREOC 2007d); and
- the Western Australian Department of Infrastructure reported in their submission that they were fully compliant with 'key aspects' of the Transport Standards for ferries and jetties, with the exception of the standard relating to alarms on jetties which were 50 per cent compliant (sub. 81, pp. 28-29). However, Western Australia did not report against all applicable items in the Transport Standards, for example, information and hearing augmentation.

Despite this progress, consumers raised the following issues in relation to accessing ferry travel:

- access to ferries in New South Wales is entirely through direct assistance and the reliance on direct assistance rather than independent access has been criticised by people with disability (sub. 90, p. 2);
- several people with a mobility impairment noted that the slope of ramps to board and disembark the ferry were too steep for safe use of a wheelchair however Queensland Transport indicated that standards specifying the ramp slope grade were unable to be met 100 per cent of the time due to tidal ranges (sub. 50, p. 35); and
- some people with hearing and vision impairments reported difficulties in accessing information and announcements in an appropriate format both on-board and at the terminal. The Western Australian Public Transport Authority noted difficulties with implementation of hearing augmentation standards due to signal interference and compatibility (sub. 41, p. 4).

It is also clear that accessible ferry conveyances need to be coupled with accessible wharves, jetties and pontoons in order to improve overall accessibility for passengers with disabilities. For example, operators of accessible ferries in Queensland reportedly have concerns about leaving passengers 'stranded' at pontoons that are not adequately accessible (Queensland Transport, sub. 50, p. 39).

Accessibility of ferry travel varies both between the three States that have ferries and within States. In general, newer vessels and wharves are more accessible. The Brisbane CityCats are a new fleet and were noted as particularly accessible by passengers. Sydney Ferries has a larger and older network than in other States and was noted as less accessible by consumers with only 46 per cent of wharves accessible at this time, and all services relying on direct assistance.

5.6 Overall achievement of accessibility to date

This chapter assesses the accessibility of air and ferry travel including associated infrastructure based on State and Territory compliance reporting and information provided to this review in public hearings and submissions.

Air travel

In relation to air travel, there are considerably divergent views between airlines and disability organisations on the current level of accessibility and the extent of progress. In the absence of independent data on patronage, or other measures of accessibility, this review must consider reports from both groups and weigh up the available evidence.

Air travel has been an area of increasing complaints to the AHRC. Views expressed by people with disability to this review highlight the current level of frustration in understanding the obligations for airlines under the Transport Standards. The two key examples of such issues are:

- whether the application of independent travel criteria, where some people with disability are required to travel with a carer, constitutes discrimination under the DDA; and
- whether limits on carriage of mobility aids and assistance dogs are in breach of Transport Standards requirements — issues which the Transport Standards are currently silent on.

As such, a measure of accessibility for air travel needs to consider access under such conditions, which currently are disputed as to whether they constitute access (for example, where a person is able to travel but not independently, or where they are able to travel but not carry their preferred mobility aid with them). Airlines argue that such conditions are reasonable given the characteristics of air travel, namely safety and carriage requirements.

On the information available, it is not possible to establish that the requirements in the Transport Standards have not been met for air travel. However, the information presented to the review suggests that, unlike most other modes of public transport covered by the Transport Standards, the general level of accessibility has declined over the last five years. This outcome is not consistent with the intent of the Transport Standards. Many of these issues have emerged since the introduction of the Transport Standards, with the Transport Standards not providing sufficient guidance to resolve them.

It is worth noting however, that in February 2009 the Australian Government established the Aviation Access Working Group to provide advice to government on disability access policy, the relevant legislative framework and practical measures that can be taken to improve the access to air services for people with disability. The Group has representation from Government, industry and disability groups. Information on the current activities of the Group can be found at <http://www.infrastructure.gov.au/aviation/aawg/>

Ferry travel

In relation to ferry travel, there is limited information available and only limited comment was provided about ferry travel at public hearings or in submissions. It should be noted that due to the limited use of ferry travel across the country it was not discussed at length in the hearings and submissions. As such it is difficult to establish from users' experiences if implementing the Transport Standards has resulted in improved accessibility outcomes for people with disability.

Based on the available information it appears that there has been some good progress towards the compliance milestones in the area of ferry travel. Boarding and disembarking the ferry has improved and a large number of conveyances are accessible, albeit with direct assistance. Hearing augmentation is an area that is not likely to meet the compliance milestone.

Part C

*The effectiveness and efficiency of the
Transport Standards*

Chapter 6

Effectiveness in removing discrimination for people with disability

Key findings

- Evidence on completed and planned infrastructure upgrades suggests that the Transport Standards have been a significant influence on improvements in accessibility of public transport for people with disability.
- Comprehensive base-line data from 2002 are not available to make a quantitative assessment of the impact of the Transport Standards. There is only a very small sample of complaints data that relate to public transport.
- Stakeholders report uneven improvements in accessibility, particular modes (such as air travel) have not made the same progress as other modes, and there is a significant difference in experience between urban and rural regions.
- For many people with disability, public transport services have not yet reached a threshold level where they have 'whole of journey' accessibility. This is the result of staged targets for compliance, which are an explicit, and intended, feature of the Transport Standards.
- People with disability report a lack of confidence in the reliability of accessible services. For buses and taxis, people with disability are also concerned about the safety of travelling onboard while sitting in their mobility aids. These concerns are limiting patronage of accessible services.

6.1 Introduction

The purpose of the Transport Standards is to remove discrimination on the basis of disability from public transport services, over a 30-year period (Part 1.2). By introducing the Transport Standards, the Australian Government was seeking to increase certainty for potential complainants to the DDA, by making the implicit requirements in the DDA available in an immediately accessible form, and thus have a greater impact on the elimination of discrimination than the DDA alone (Disability Discrimination Commissioner 1993).

The task for this review is to assess the progress of the Transport Standards in meeting this purpose, taking into account the progressive milestones for compliance. Part B of this report provides an analysis of available information on accessibility of public transport for people with disability. As discussed in Chapter 1, assessing accessibility of public transport is a relevant indicator of the extent to which discrimination has been removed (to date) from public transport.

Using the conclusions on accessibility made in Part B, this chapter provides an assessment of the Transport Standards as a driver of improvements in accessibility — have the Transport Standards been an effective tool in increasing accessibility, and thus removing discrimination? Answering this question involves analysis of:

- the degree to which accessibility has improved in the period since the Transport Standards were introduced, and how this relates to removal of discrimination;
- the impact of the Transport Standards on these outcomes; and

- the experience of people with disability in using public transport since the introduction of the Transport Standards (which determines whether the variety of changes to accessibility of public transport have led to an actual removal of discrimination against people with disability).

These issues are discussed in this chapter.

6.2 Accessibility achieved since the introduction of the Transport Standards

Part B of this report provides a detailed analysis of the current level of accessibility of public transport in Australia. This analysis uses publicly available data (such as from Disability Action Plans), and data provided in submissions.

The overall impression is of considerable variability in current levels of accessibility, on the basis of mode of transport, type of infrastructure and region. That said, the following observations can be made about progress since the introduction of the Transport Standards.

- Reported accessibility of trains, buses and ferries has increased for people with a mobility impairment, both through new types of conveyances and the provision of direct assistance to passengers when boarding.
- There has been an increase in the proportion of WATs in the total taxi fleet, though anecdotal evidence of long response times suggests that there remains a level of unmet demand for WAT services higher than that for standard taxis.
- Slower progress in upgrades of transport infrastructure than conveyances means low levels of compatibility of the overall public transport service. This is particularly evident for bus and tram travel.
- There is a lower level of accessibility for all modes in regional areas compared with metropolitan areas, with accessibility efforts to date focusing on metropolitan areas where there are higher passenger numbers. This is the case even when differences in availability of transport services are taken into account.
- There are limited data on the accessibility of information and signage, as progress in relation to these aspects is rarely reported. Feedback from stakeholders suggests that information provision is being addressed through websites, though more could be done to improve accessibility at stops, stations and on conveyances.
- Data on accessibility of air travel are less comprehensive than for other modes. Anecdotal evidence from people with disability suggests that recent changes to policies by some airlines have had a negative impact on accessibility. There are particular issues that are specific to air travel which are causing confusion and uncertainty for both providers and passengers.

These conclusions indicate both progress and problems with accessibility efforts in the period since the introduction of the Transport Standards. Many reported problems of consistency and compatibility are due to the progressive nature of implementation of the Transport Standards, and will likely be addressed over the subsequent period of implementation. These issues aside, most stakeholders acknowledge that accessibility has improved in the period since the introduction of the Transport Standards (within the context of the required progress to this stage of implementation). The following comment from the Australian Federation of Disability Organisations supports this conclusion:

There is no doubt that more people with disability can use public transport today than could five years ago and more people with disability can travel independently. Additionally, some of the people with disability who used public transport prior to the introduction of the Standards now find it easier and safer to do so. For example, the increased use of low-floor buses has made this means of travel more reliable for people with mobility impairments. The introduction of oral announcements of waiting times at tram stops means that a person with vision impairment can know with certainty which tram to enter. Increased use of signs and written information means that people with impaired hearing can more effectively navigate public transport. (sub. 11, p. 7)

For many modes of public transport levels of accessibility are higher than that required in the Transport Standards at this stage of implementation. This is particularly the case in metropolitan areas. Stakeholders in rural and regional areas noted that improvements to date have been focused on metropolitan areas, as observed by the Wellington Shire Council in their submission to this review:

Basically the ‘TRICKLE DOWN EFFECT’ is not working for us!! The Compliance program is making good progress in Melbourne and to the areas within the fast rail network (ie circle around Melbourne that reaches Geelong, Ballarat, Bendigo and Traralgon). We would like to acknowledge the effort and expenditure that has gone into the improvements that have occurred (in Melbourne and in areas such as the Latrobe Valley) – they have made a major difference to people’s lives. However once you go beyond what we sometimes call ‘the magic circle’ defined by the edges of the fast train network in Melbourne, the picture is very different. (sub. 14, p. 2)

This two-tiered outcome is likely due to the progressive nature of improvements in public transport accessibility. The focus at this early stage has typically been on metropolitan areas where there is the highest population density, and thus the largest transport networks. The resulting mismatch in accessibility, coupled with an overall lack of public transport in rural areas, exacerbates the difficulties for people with disability in travelling independently in rural and regional Australia.

6.3 The impact of the Transport Standards in removing discrimination

A key question for this review is to what extent the Transport Standards have led to a reduction in the discrimination against people with disability in access to public transport, given other factors that may also be influential. A quantitative comparison of accessibility between 2002 and 2007 could not be conducted for this review because of the lack of 2002 data on accessibility (or patronage). This review has considered data from Action Plans, annual reports and comments and observations from stakeholders provided in public hearings and submissions.

The introduction of the DDA in 1992 has played a role in reducing discrimination for people with disability, including in relation to access to public transport. The Productivity Commission, in its review of the DDA in 2004 found that the DDA has been ‘somewhat effective’ in making public transport more accessible for people with disability, though some of this impact may have been due to the development and introduction of the Transport Standards (Productivity Commission 2004).

This progress notwithstanding, the intention of introducing the Transport Standards was to improve on gains made by the DDA, by providing more specific information and direction on compliance. It is not possible to prove the counterfactual in this case (i.e. what level of accessibility would have been achieved without the Transport Standards), though it is likely that operators and providers of public transport would have progressed accessibility improvements on the basis of their existing policies, and obligations under the DDA. However, many stakeholders noted that the Transport Standards provide a level of specification, and a compliance deadline which progresses accessibility more than the DDA alone could have achieved. As AHRC Disability Commissioner Graeme Innes observed:

I can see nothing – I repeat, nothing, in Australian human rights and discrimination law that has had so demonstrable a large scale and positive impact in our society as the implementation of the Transport Standards to date. This is despite, or perhaps because of, the absence of large scale wins and losses in litigation or political and media fireworks on the subject since the standards were introduced. (Graeme Innes, 2006)

Even stakeholders who provided critical comment on aspects of the Transport Standards, or sought faster progress, acknowledged their value:

... prior to five years ago we actually didn’t have standards in relation to transport. It’s really easy as an organisation and as people with disability to critique the standards because you don’t actually see that there has been a lot of progression in the transport network in five years. To a certain extent that’s fair enough, but I don’t think any organisation from a disability perspective would say that we shouldn’t have standards to begin with. (Jessica Zammit, Melbourne Hearing Transcript, Day 2, p. 50)

Even prior to their introduction, the Transport Standards provided an impetus for public transport providers to consider and plan for accessible conveyances and infrastructure. From the late 1990s when the Transport Standards were first suggested, and drafting commenced, governments and operators of public transport commenced planning for upgrades to infrastructure and conveyances. Those States and Territories that were early movers in this regard, such as Queensland in relation to taxis, are providing levels of accessibility greater than that required at this stage.

It is clear from stakeholder comments to this review that the Transport Standards have been a major driver of efforts to improve accessibility of public transport. Stakeholders have consistently emphasised to this review the impact of the Transport Standards in increasing awareness of the need for accessible public transport. As Blind Citizens Australia noted in their submission to this review:

BCA believes that the Disability Standards for Accessible Public Transport (DSAPT) are an important step towards making Australian society more accessible for people who are blind or vision impaired. They do this through raising awareness of the precise needs of people with disability with regards to transport, and by offering both guidelines and legally binding requirements for transport service providers and infrastructure providers. (sub. 12, p. 2)

6.4 Experience of people with disability in using public transport

The Transport Standards represent the first legislated set of requirements to remove discrimination in the provision of public transport for people with disability. To this end, they have been a key driver in current and planned actions to make adjustments to their services by providers and operators. These improvements, however, are typically measured in terms of numbers of accessible conveyances (buses, tramcars, train carriages) or infrastructure (stations, stops). This component approach to reporting of accessibility (as shown in Part B of this report), while useful, does not provide an indication of the experience of individuals who wish to use the public transport system in the same manner as people without a disability (and thus, not be discriminated against).

Passenger experience is, by definition, a significantly more subjective and qualitative indicator than counts of conveyances or infrastructure. They are, however, important to consider along side other types of information.

In their comments to this review, people with disability accepted that accessibility had improved (as reflected in comments made above). They also noted two key areas which were impacting on their ability to access public transport:

- the need for whole of journey accessibility; and
- the need to improve confidence in the public transport system through improving reliability of services and safety.

The need for ‘whole of journey’ accessibility

A significant issue for people with disability who wish to use public transport is having ‘whole of journey’ accessibility. Where this is achieved, people with disability are able to move between public transport infrastructure and conveyances and between modes of transport as required to complete their journey — just as people without disability are able to. ‘Whole of journey’ accessibility relates to the need for an integrated journey, including accessing timetable and service information, getting around the stop, station, wharf or terminal and accessing the conveyance, noting that many journeys will involve several services and may involve several modes of transport. As the Australian Local Government Association notes in their submission to this review, ‘under the current provisions a council, or another public transport provider, could, for example, meet its obligations of achieving complying percentages of its facilities, without a single route being fully accessible’. (sub. 28, p. 4)

While it is an important outcome for people with disability, ‘whole of journey’ accessibility cannot be expected at this stage of implementation of the Transport Standards. The intent in structuring compliance requirements in the Transport Standards was to allow stage compliance to minimise costs for providers and operators. Using trams as an example, the Transport Standards require that 25 per cent of services (both conveyances and infrastructure) are compliant with a range of requirements by 31 December 2007, however there is no requirement that the 25 per cent of tram conveyances that are accessible, go to the 25 per cent of tram stops that are accessible. Moreover, an accessible tram may stop at many tram stops, not all of which are accessible. If a passenger’s destination or departure point is not at one of the accessible tram stops, being able to catch an accessible tram is of little use. Likewise, if a passenger’s closest tram stop is accessible, not all services running to that stop are likely to use an accessible tram, resulting in longer waiting periods for people with disability.

This issue is exacerbated with every additional leg of the journey and is complicated when there is a need to use more than one mode of transport to complete a journey. As one stakeholder noted:

... anybody’s transport engagement is not a one-stop thing you don’t just get on at one bus stop or one platform and go ‘round the system and get off at that platform again, do you? Any of you would like to leave your house, go to the nearest engagement with public transport, have it accessible, get on to a vehicle that’s accessible, go into town or to the place you are going to to enjoy a pursuit with your friends, get off at that particular embarkation point, and have it accessible, go and do what you must do, come back to that point, go across to another place and get home again. How many stations is that? At least four. (Paul Larcombe, Brisbane Hearing Transcript, p.5)

Given the multitude of possible journeys that a person with disability may wish to make on a public transport network, ‘whole of journey’ accessibility will remain a considerable issue until there is close to full accessibility of all conveyances and infrastructure. That said, once compliance has reached a threshold level where a critical mass of services are accessible, ‘whole of journey’ accessibility will be much improved.

Planning to ‘match’ accessible conveyances with infrastructure is critical in maximising accessibility for users, however there are often several providers and operators involved in a transport network, who may not have consistent Action Plans for implementing the Transport Standards. The submission from the Southern Sydney Regional Organisation of Councils (sub. 56, p. 12) illustrates this point:

At present the Department of Planning Strategy documents make no reference to the Transport Standards. It will be important that both the NSW Department of Planning and Sydney Buses takes account of the requirements when making changes to bus routes, and advise local Councils as soon as possible of those changes.

The lack of ‘whole of journey’ accessibility was raised consistently in the hearings and submissions as a barrier to people with disability using public transport across most modes. For example:

- it was widely noted that bus conveyances infrastructure accessibility had improved but that bus stop infrastructure was lagging in several areas of accessibility which reduced overall ‘whole of journey’ accessibility;

- low-floor trams in Melbourne that are accessible for people with a mobility impairment can only be used at specially designed platform tram stops, which are estimated as being only six per cent of total stops (sub. 68, p. 8). On the other hand, for people with vision impairments, many tram stops in Victoria now have TGSIs and audible announcements, yet the trams themselves do not have contrasting poles and buttons making them less accessible (sub. 12, p. 3); and
- accessible ferry operators raised concerns about leaving people with a mobility impairment ‘stranded’ at wharves that were not wheelchair accessible (sub. 50, p. 39).

In addition, it was noted by some infrastructure providers that there were many locations where even if public transport infrastructure were upgraded to meet the Transport Standards, the bus or tram stop, train station or taxi rank may not be accessible as surrounding footpaths and access paths, which are not covered by the Transport Standards, may not be accessible for people with disability. In these cases, providers saw little benefit in upgrading infrastructure.

6.5 Confidence in public transport accessibility

The purpose of the Transport Standards is to remove discrimination against people with disability in using public transport. They do not prescribe a level of patronage of public transport by people with disability, though it is hoped that improvements in accessibility will lead to higher patronage (and the benefits of increased patronage). Some providers observed in hearings and submissions that current patronage on accessible services is relatively low. Several disability organisations also noted that many people with disability remain uncertain about using public transport; they do not feel confident in using public transport. Confidence is an important indicator of accessibility— if certain characteristics of a public transport system diminish the confidence of people with disability in using the service, then discrimination remains.

Experiences of people with disability that were provided to this review illustrate that, even where providers had met their obligations under the Transport Standards, ongoing issues with reliability, safety and convenience were proving barriers to confidence in the service.

A number of people with disability raised concerns about the reliability of accessible services, which impacted on their confidence in using public transport. Unreliability was reported across several modes of transport. It was noted that bus timetables often indicated an accessible bus was available on a particular route however that bus had been taken out of service, or the ramp was not working making it inaccessible for many people with disability, leaving that person waiting for long periods at the bus stop. People with a vision impairment reported problems when they were not made aware of changes to bus stops, or upgrading and construction work where the bus stop may be moved temporarily. One blind passenger reported waiting at the bus stop for an hour before being advised that the bus stop had been moved (sub. 19, p. 3).

Reliability of services was also raised in the context of train travel. Users from rural areas reported being concerned about common train delays that could leave them stranded for several hours without an accessible toilet. Further, there were concerns that if track work was being completed, the buses provided as a temporary service may not be accessible (sub. 24, p. 6).

In relation to wheelchair accessible taxis, users consistently reported that availability and reliability were low, particularly during peak times, when accessible taxis were being used as de facto school buses (due to the exclusion of dedicated school bus services from certain physical access provisions of the Transport Standards), (sub. 11, p. 18). People with disability indicated that unreliable services and long waiting times significantly reduced their confidence in public transport getting them to their destination in a timely manner which can impact on their ability to engage in work effectively, and access other services. It is particularly concerning given that for a number of people with disability, taxi travel is their only transport option.

Users' concerns for their own and other passengers' safety also reduced their confidence in public transport travel. The lack of a requirement in the Transport Standards for restraints or locking devices to be used for mobility aids on buses was raised as a significant safety issue by both people with disability and operators and providers. It was noted that passengers in buses were subject to the same forces as in taxis, and mobility devices that are not tethered are a safety risk to both passengers in wheelchairs and scooters and the other passengers on the bus.

Spinal Cord Injuries Australia (sub. 76, p. 8) reported that active restraining straps that were previously provided on buses in New South Wales had been removed by operators due to concerns they did not comply with safety standards and called for clear guidance to be provided in the Transport Standards that outlines strap strengths, lengths and fasteners. The New South Wales Government noted in its submission on the Draft Report that the removal of restraints only involved one bus operator and added, 'NSW's largest bus operator, Sydney Buses, continues to install restraints in all new accessible vehicles and the Ministry of Transport encourages all other operators to do the same' (sub DR.37, p.5).

The level of public transport staff training and awareness can lead to different experiences for people with disability, even when using the same service, or with the same operator. The Transport Standards Guidelines (Parts 37.2 & 37.3) state that 'staff orientation and education programs should enable staff to provide assistance that is helpful without being patronising in language, attitude or actions', and that customer service programs include awareness education and training in the use of accessible equipment.

Despite this requirement, people with disability reported a range of negative experiences using public transport services that technically complied with the Transport Standards, but where public transport staff did not have the expertise to implement the Transport Standards effectively. A number of examples were provided by people with disability to illustrate this point including:

- drivers of wheelchair accessible taxis are inadequately trained in how to use restraints safely. The Australian Federation of Disability Organisations (sub. 11, p. 13) noted that, to their knowledge, Victoria was the only state that had mandatory training for drivers of wheelchair accessible taxis. The NSW Government noted in their submission on the Draft Report that this was not accurate — as NSW also has mandatory training for drivers of wheelchair accessible taxis. One user described their experience;

taxis are completely unreliable for most users. In the worst case scenario, the taxi is hired at airports and the driver does not know how to operate the mechanism to load the passenger. On top of that the driver does not understand the need for the use of safety belts and secure straps (sub. 18, p.6);

- airline staff are inadequately trained in how to operate safety harnesses, slings and lifts used to transfer people with a mobility impairment from wheelchairs into their seats. One passenger who fell through the harness during transfer due to inappropriate use by airline staff described the experience, ‘the whole incident left me feeling embarrassed and humiliated and even more fearful of flying’ (sub. 63, p. 60);
- inconsistent application of airline policy relating to independent travel, carriage of mobility aids and boarding procedures. Users expressed frustration at not knowing what to expect from air travel each time they travel, despite informing airline staff of their needs and disability when booking the fare. For example, one passenger was allowed to travel independently on one leg of their journey and then was refused independent travel for the return journey, requiring the passenger’s mother to fly and meet him to travel as his carer. As one person with a disability noted about the inconsistent application of airline Independent Travel Criteria;

that leaves us in the unacceptable position of having to purchase air tickets - hundreds of dollars - on a lottery basis, with no assurance that we will actually be allowed to board a flight and reach our destinations, or even that the tickets will be refunded if we are denied travel (Craig Wallace, Canberra Hearing transcript, p. 8);

- public address systems are not a useful form of information dissemination to people with hearing impairments where staff are not trained to speak slowly and clearly, or where staff do not use the systems that have been fitted (sub.12, p.14); and
- inconsistent provision of ‘direct assistance’ on buses and trains with bus drivers and railway staff being unclear on their obligations to provide direct assistance with boarding devices and ramps. In some cases, public transport staff refuse to provide direct assistance for boarding, due to occupational health and safety concerns.

These issues highlight the need to consider accessibility more broadly than just the various components of a service.

6.6 Scope and value of current compliance information

This review found that the value and scope of current compliance information is limited in its capacity to support a robust assessment of whether discrimination has been removed as a result of the introduction of the Transport Standards.

Reporting against the Transport Standards

There are several problems associated with the compliance data currently reported, including:

- an absence of baseline data on accessibility against which progress since the introduction of the Transport Standards can be assessed;
- a lack of consistency in the data reported across different regions of Australia;
- limitations in the quantity and quality of data provided by the private sector; and
- variations in the quality of data reported by different levels of government.

At the time of introduction of the Transport Standards, baseline data of accessibility was not collected. The absence of this data means it is not possible to directly assess the impact of the introduction of the Transport Standards using a comparative quantitative assessment.

In many jurisdictions there is no dedicated data collected for the purpose of assessing the effectiveness of the Transport Standards. As a result, jurisdictions rely on alternative sources of data, which present only a partial picture. The quality of data that can be generated using this approach is limited because the responsibility for implementing the Transport Standards spans both local and State and Territory governments. New South Wales reports difficulties in collecting information about the number of bus services that are accessible:

The Ministry is exploring methods of improving the detail and accuracy of its reporting. For example, the Transport Standards require 25% of bus services to be accessible by the end of 2007, but the difficulties of data collection currently confines NSW to reporting on vehicle accessibility. (sub. 92, p. 10)

Focusing reporting just on conveyance accessibility creates an inaccurate picture, as accessibility of bus services requires the bus stop and other components of the service such as information, as well as the bus, to be accessible. The difficulty in collating this data is partially the result of a disjunct in responsibility for the licensing of public transport buses and the provision of bus stops and bus services.

In general, the level of data collection on which the current assessments are made vary considerably between jurisdictions. The Northern Territory for example, reports that there is no standardised data collection used to assess the level of public transport accessibility:

There is no data collected on accessibility issues in regard to public transport in the Northern Territory. Problems experienced by disabled people are generally made known via letters of complaint. (sub 91, p. 11)

It has also been noted that private sector involvement in the delivery of public transport may be affecting the quality of the data provided for a number of reasons, including:

- the collection of data is onerous and expensive;
- reporting against the Transport Standards is complex and poorly understood; and
- the fear of penalisation.

As such, even where data collection against the Transport Standards is attempted the response rate from public transport providers is poor. The Queensland Government asserts that:

The resultant data is subsequently not reflective of the entire state's level of accessibility, instead being indicative of the number of operators that decide to respond from year to year, and their level of insight with regard to the Transport Standards. (sub 50, p. 10)

The difficulty of assessing the impact of the Transport Standards in improving accessibility for people with disability has been further exacerbated by the absence of a standardised format for compliance reporting. To date, compliance reporting by the States and Territories to the AHRC has not involved any kind of standardised formats. Action Plans that are provided to the AHRC do not have the same format, do not report against a common set of indicators, or use a standard reporting period, making it very difficult to make comparisons of progress between States and Territories.

It should also be noted that the progress reports published on the AHRC website create an inaccurate picture of accessibility because they focus on a relatively narrow definition of disability – that is, physical accessibility. Ensuring that services are accessible for people who use a mobility device and recording this is relatively straightforward. The complexity of the Transport Standards, however, in conjunction with a lack of understanding of what constitutes a fully accessible service, results in gaps in the reporting of accessibility for a broader set of people with disability (including those with a vision or hearing impairment).

Data on complaints

The complaints handling unit within the AHRC collects data on all complaints made to the AHRC, including those related to public transport. Data in Table 6.1 show that only a small proportion of total DDA complaints relate to discrimination in access to public transport. The highest proportion of complaints in this category involves air travel, though it is still a relatively small number considering total travel volumes.

The small data set available does not provide an opportunity for time series analysis (i.e. whether the Transport Standards have reduced the incidence of complaints). Stakeholder comments to this review noted that complaints volumes are not necessarily a good indicator of discrimination, because of a lack of knowledge of complaints avenues and reluctance of people with disability to go through a formal AHRC complaints process (though people may use other complaints processes such as those operated by service providers).

Table 6.1

NUMBER OF COMPLAINTS LODGED WITH THE AHRC

	2002/2003*	2003/2004	2004/2005
Total number of complaints lodged	348	526	567
Total number of complaints relating to public transport	23 (6.6%)	17 (3.2%)	31 (5.5%)
Categories of complaint			
Airline	6	9	16
Bus	5	3	2
School bus	—	—	1
Train	5	3	4
Taxi	4	1	5
Ferry	1	—	2
Tram	1	—	1
Hire car	—	1	—
Departmental fare policy	1	—	—

* Records for this year commence on 1 October 2002

Source: Australian Human Rights Commission, unpublished data.

Data on patronage

At present, there is no collection of data on patronage trends for people with disability on public transport. The collection of patronage data, while not a performance indicator under the Transport Standards, is one method of measuring the effectiveness of the Transport Standards in removing discrimination and improving accessibility for people with disability. It can provide information about:

- the spread of improvements in accessibility for people with different types of disability; and
- the spread of improvements across modes of public transport.

The collection of patronage data will also improve the capacity for the community to draw comparisons of progress between jurisdictions and encourage best practice. It should be noted, however, that the Queensland Transport Department raised the following concern regarding the collection of patronage data:

... recording data about patronage numbers of people with a disability is impossible, as well as contradictory to the spirit of the Transport Standards. Queensland Transport is of the understanding that the Transport Standards are premised upon creating access to transport for those members of society with a disability in a way that is at all times respectful, non-confrontational and unimposing. Recording the patronage numbers of people with a disability would appear to undermine the very equity of treatment the Transport Standards set out to achieve. (sub. 50 p. 11)

While this concern is valid, it is proposed that an existing data collection tool could be used, such as the ABS Disability, Ageing and Carers survey, thus avoiding any marginalisation or discrimination of people with specific forms of disability. This would involve self-reporting of patronage as part of an existing survey and remove the onus on providers to have to ‘pick out’ or identify people with disability.

6.7 Conclusions

The first five years of implementation of the Transport Standards have brought improved accessibility of public transport for people with disability. These improvements have been incremental, reflecting the significant changes to public transport conveyance and infrastructure that are required by the Transport Standards.

The variation in experience by mode of transport, type of infrastructure and region mean that making judgements of progress against the targets in the Transport Standards is problematic. Some significant improvements have been achieved (such as growth in low-floor bus fleets), while other areas are stalled in difficulties over implementation (such as air travel).

With no baseline data collected at the time of the introduction of the Transport Standards in 2002, it is not possible to conduct a quantitative assessment of their marginal impact. Stakeholders have, however, emphasized to this review that the Transport Standards have been influential in increasing the profile of accessibility for people with disability, and the responsibilities of public transport providers and operators. It is unlikely that this outcome would have been achieved through the DDA alone.

People with disability report progress through the Transport Standards. This progress has not yet reached a threshold level where there is ‘whole of journey’ accessibility or greatly increased confidence in public transport systems. The experiences of people with disability in using public transport will affect their confidence in the ability of public transport to meet their transport needs, including reliability, safety and convenience. Even where providers are complying with the Transport Standards, there were a range of issues experienced that reduced confidence. These included unreliable services, unsafe practices such as not using restraints in buses for mobility aids, and poor customer service from public transport staff due to inadequate training.

Chapter 7

Effectiveness of the regulatory approach

Key findings

- There is a rationale for government intervention in removing discrimination against people on the basis of disability. It is unlikely that the private sector would provide accessible public transport, given the associated costs which are not able to be recovered from the individuals using the service.
- Government intervention in terms of access to public transport for people with disability is currently provided through the DDA and the Transport Standards.
- The Transport Standards are predominantly prescriptive regulation, with a small number of performance-based measures.
- In comments to this review, stakeholders highlighted areas where the level of prescription within the Transport Standards is appropriate, but where the guidance provided is inaccurate.
- Stakeholders also identified areas where the level of prescription within the Transport Standards is inappropriate — most commonly where it attempts to prescribe the same standards across different modes of transport.
- Conversely, there are other aspects of the Transport Standards which stakeholders identified as not being prescriptive enough — where performance-based requirements have been used, but more guidance on requirements would be beneficial.
- The use of references to Australian Standards in the Transport Standards makes interpretation of the requirements in the Transport Standards difficult for both providers and people with disability. In addition, many of the Australian Standards referenced are not appropriate for public transport conveyances or infrastructure.
- Co-regulatory codes of practice for specific modes of transport are an option to support industry engagement with requirements under the DDA, though not as an alternative to the Transport Standards themselves.

7.1 Why regulate services for people with disability?

Providing public transport services for people with disability involves costs that are difficult to recoup directly from the individual that uses these services (for example the cost of staff time in providing direct assistance, or the higher cost of a low-floor bus compared with a standard bus). As a result, it is unlikely that the private sector alone would provide these services, and there is a case for government intervention.

Government has a recognised role in removing discrimination for people with disability, which it has chosen to exercise through regulation (specifically, the DDA and the Transport Standards). Where government chooses to regulate, it has the choice of three broad regulatory styles:

- *performance-based regulations* — performance-based rules state the desired outcome from regulation, and allow affected parties the flexibility to choose the means of compliance to fulfil this objective. Individuals and firms are therefore able to seek out (and implement) the least-cost way of achieving the specified outcome (for example, the objective of a regulation may be to reduce to safe levels the exposure of workers to chemical fumes that are a by-product of a production process). Moreover, the means of compliance can be readily adjusted with advances in technology and knowledge;

- *prescriptive regulations* — prescriptive regulations specify the technical means for attaining a specified outcome and may not include a reference to the desired performance outcome (for example, to achieve the objective to reduce to safe levels the exposure of workers to chemical fumes companies are required to install specified ventilation systems to extract the fumes, thereby reducing the exposure of workers) (Office of Best Practice Regulation 2007); and
- *process regulations* — process oriented regulations are essentially a method of achieving performance outcomes through specified procedures and processes used for specified operational areas (for example, a process of hazard identification, risk assessment and risk control).

These approaches differ in the degree to which actions by regulated parties are specified by the regulator. There is no unique form of each of these approaches in practice — they can be thought of as lying along a continuum from highly prescriptive to highly performance-based. The styles are alternatives that can be adopted to achieve the desired regulatory outcomes.

7.2 Performance-based versus prescriptive regulations

The difference between performance-based and prescriptive regulation relates to the degree of specification of compliant actions. Prescriptive regulations set out, in exact terms, what actions need to be done. Conversely, performance-based regulations state what the outcome should be, but do not specify the actions to get to this outcome.

Recent research on best practice in regulatory design has emphasised the benefits of performance-based regulation, and advised the use of performance-based regulation over prescriptive approaches. The Council of Australian Governments (COAG) advises the use of performance-based regulation where possible:

Regulation should have clearly identifiable outcomes and unless prescriptive requirements are unavoidable in order to ensure public safety in high-risk situations, performance-based requirements that specify outcomes rather than inputs or other prescriptive requirements should be used. (COAG, 2004)

This stated preference for performance-based regulation is based on the view that it provides greater flexibility, fewer restrictions on regulated parties, and therefore minimises the costs of regulation. The following are the main advantages of performance-based regulation.

- *currency* — by specifying outcomes, performance based standards are more responsive to technological change. As only outcomes are required, performance-based regulation does not rely on technical standards that may date as technologies change. Performance-based regulation will only date to the extent that community perceptions or expectations about the desired outcome change;
- *flexibility and innovation* — where regulation is performance-based, there remains flexibility for regulated entities to innovate and manage risks in a way which best suits their particular environment and circumstances;

- *simplicity* — performance-based regulation does not rely on a large amount of regulatory information to be associated with those duties, and amendments are required less frequently;
- *equitable treatment* — this comes about through adapting given outcomes to the requirements of particular circumstances;
- *empowerment* — performance-based regulations allow parties who have obligations under the law to plan and implement an approach to these obligations, recognising their specific knowledge and skills; and
- *inclusiveness* — engages all parties involved to be responsible for outcomes.

While there is a preference for performance-based regulation, there are instances where greater prescription is required (such as public safety, as noted above by COAG). Prescriptive regulation provides:

- *certainty* — prescriptive regulation sets out specific actions for compliance. In this way, they provide a high degree of certainty (when well specified), as it is easy for responsible parties to follow the direct requirements. This differs from performance-based regulation where there is less certainty about what is to be enforced, and about the court interpretation of performance based duties;
- *guidance on required actions* — prescriptive regulations should provide clear guidance on the actions required by regulated parties, and thus are intended to be the definitive information source on requirements under the law. Conversely, with performance-based regulation there is a lack of clarity about the type of information that performance-based statutory instruments should contain to assist people in executing their legislated duties; and
- *reduced effort for regulated parties* — prescriptive regulations clearly set out the actions that need to be taken, and do not require any further planning or effort by regulated parties (other than complying with the requirements). Conversely, with performance-based regulation it is assumed that everyone responsible under that legislation has the specific knowledge and resources necessary to identify ways in which to achieve the stated outcome, in the absence of the detailed prescription of required means. This may have a particular impact on small regulated entities.

Performance-based regulation is also considered to be inappropriate where there are significant risks of poor outcomes (such as public health and safety) or where inconsistent approaches to meeting outcomes are not desirable (that is, where consistency is important for consumers).

Choosing the appropriate form of regulation

How do governments choose the regulatory approach to take to address a particular problem? This choice needs to be made after an assessment of the problem being addressed, and the characteristics of the regulated parties. This is essentially an assessment of which achieves the greatest net gain, under given conditions.⁴

A useful framework for determining the appropriate regulatory style is illustrated in Figure 7.1. In this Figure:

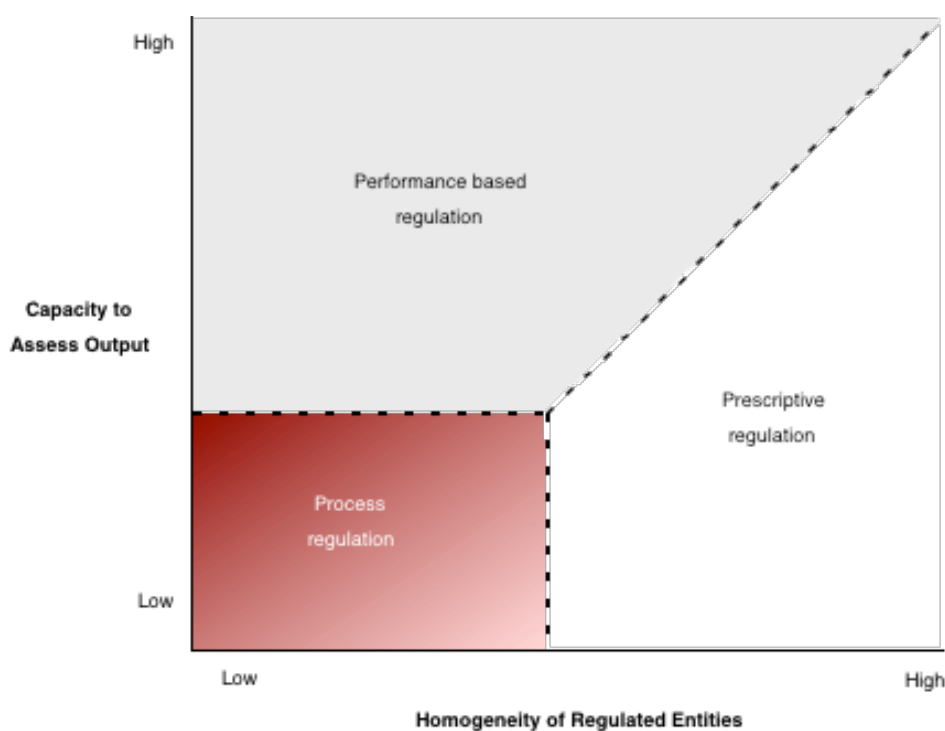
⁴ The net gain is the benefits of the regulation minus the regulator's costs of selecting and implementing a standard and minus the regulated entities' compliance costs

- the vertical axis represents the capability of regulators to measure outputs accurately. When the ease of measuring outputs (or well-correlated proxies for output) is high, performance-based regulation will be a viable instrument choice for regulators; and
- the horizontal axis represents the degree of homogeneity of the regulated entities, both across locations and over time. For a regulated sector to be homogeneous it means that:
 - at a given point in time most regulated entities have similar operations; and
 - the inputs (for example, infrastructure) used by these regulated entities tend to be stable over time.

In situations where the regulated entities are homogeneous in these ways, prescriptive regulation will be a viable regulatory strategy, as it will be less costly to identify cost-effective strategies for achieving the regulatory goal. On the other hand, the more heterogeneous a sector, either across firms or over time, the more acute will become the disadvantages of prescriptive standards.

Figure 7.1

NECESSARY CONDITIONS FOR PRESCRIPTIVE, PROCESS AND PERFORMANCE BASED REGULATION



Derived from: Cary Coglianese & David Lazer, 2002.

This framework makes intuitive sense when considering how the various types of regulation work — performance-based regulation will not be effective if the outcome that it requires is not easily observed (as enforcement will be prohibitively costly and compliance will be low). Conversely, highly prescriptive regulations will be inefficient if they require the same action from many different types of firms, who may not all be able to meet the requirements for practical or logistical reasons (thus placing a high regulatory burden on these firms).

7.3 The current regulatory approach used in the Transport Standards

The current regulatory approach to disability discrimination has the DDA as the primary legislation, which uses a performance-based approach. The DDA establishes the desired outcome as the removal ‘as far as possible’ of discrimination against people with disability (as discussed in chapter 1). The Transport Standards are subordinate legislation, which specifies how relevant parties can meet the outcome required in the DDA.

The majority of the Transport Standards set requirements using prescriptive regulation, with a small number of performance-based requirements. This is to be expected, given that the intention of the Transport Standards is to provide greater certainty and guidance for those public transport operators and providers who have obligations under the DDA. Indeed, the need for Transport Standards under the DDA is an example of where greater prescription is beneficial (and is the usual role of subordinate legislation).

Table 7.1 outlines the general regulatory nature of each Part of the Transport Standards, with the majority including a mix of prescriptive and performance-based requirements. However, it is important to note that where there is a mix of regulatory styles, there is a tendency for a focus on prescriptive requirements. In addition, there are a number of Parts of the Transport Standards that are solely based on prescriptive requirements, including passing areas, resting points, ramps, waiting areas, surfaces, lifts, street furniture and gateways.

Table 7.1

REGULATORY STYLES USED IN THE TRANSPORT STANDARDS

Transport Standard	Prescriptive/ Performance	Transport Standard	Prescriptive/ Performance
Part 2 — Access paths	Prescriptive and performance	Part 18 — Tactile ground surface indicators	Prescriptive and performance
Part 3 — Manoeuvring areas	Prescriptive and performance	Part 19 — Alarms	Prescriptive and performance
Part 4 — Passing areas	Prescriptive	Part 20 — Lighting	Prescriptive and performance
Part 5 — Resting points	Prescriptive	Part 21 — Controls	Prescriptive
Part 6 — Ramps	Prescriptive	Part 22 — Furniture and fitments	Prescriptive and performance
Part 7 — Waiting areas	Prescriptive	Part 23 — Street furniture	Prescriptive
Part 8 — Boarding	Prescriptive and performance	Part 24 — Gateways	Prescriptive
Part 9 — Allocated space	Prescriptive and performance	Part 25 — Payment of fares	Prescriptive and performance
Part 10 — Surfaces	Prescriptive	Part 26 — Hearing augmentation: listening systems	Prescriptive and performance
Part 11 — Handrails and Grabrails	Prescriptive and performance	Part 27 — Information	Prescriptive and performance
Part 12 — Doorways and Doors	Prescriptive and performance	Part 28 — Booked services	Performance
Part 13 — Lifts	Prescriptive	Part 29 — Food and drink services	Prescriptive and performance
Part 14 — Stairs	Prescriptive and performance	Part 30 — Belongings	Performance
Part 15 — Toilets	Prescriptive and performance	Part 31 — Priority	Prescriptive and performance
Part 16 — Symbols	Prescriptive and performance	Part 32 — Adoption	Prescriptive and performance
Part 17 — Signs	Prescriptive and performance	Part 33 — Compliance	Prescriptive and performance

Source: Disability Standards for Accessible Public Transport 2002.

Prescriptive requirements in the Transport Standards

There are a number of areas within the Transport Standards where a prescriptive regulatory style appears to have been appropriate, providing operators with guidance that would otherwise make compliance difficult. One example of an appropriate level of prescription is the allocated space for a wheelchair (section 9.1) states ‘the minimum allocated space for a single wheelchair or similar mobility aid is 800 millimetres by 1300 millimetres’ in line with the Australian Standards 1428.2. Without this level of prescription public transport operators would have no guidance on the clear floor space necessary to fit a wheelchair, which may lead to limited compliance with allocated space requirements and meeting consumer expectations.

There are, however, also a number of areas within the Transport Standards where operators and people with disability believe that prescriptive requirements are inappropriate.

The inappropriate use of prescriptive requirements can be described in two broad categories:

- Parts of the Transport Standards where the use of a prescriptive approach is appropriate, but the technical standard used is inaccurate; and
- Parts of the Transport Standards where the level of prescription is inappropriate.

Examples for each category are described in more detail below. In addition, this section also looks at the appropriateness of using the Australian Standards as a reference within the Transport Standards.

Parts where guidance is inaccurate

Stakeholders identified a number of areas within the Transport Standards where the level of prescription is appropriate, but where the guidance provided within the standards is inaccurate. One example of such inaccurate guidance is Part 9.3 of the Transport Standards — minimum headroom in an allocated space for wheelchair accessible taxis (WATs). This guidance can lead to undesirable outcomes, even when fully complied with. Compliance with the requirements does not guarantee that a wheelchair, that meets the relevant Australian Standard, will fit into the space in the WAT (see Box 7.1).

Other examples noted by stakeholders where guidance provided within the Transport Standards is inaccurate include:

- hearing augmentation and listening systems — Part 26.1 and 26.2 of the Transport Standards outline the prescriptive requirements for the implementation of hearing augmentation systems on the majority of conveyances. Some public transport operators noted that signal interference and compatibility issues can interfere with the effective use of hearing augmentation systems. One stakeholder suggested that the Transport Standards could be less prescriptive about how to disseminate information to people with hearing impairments to allow for alternative means of communication — for example, visual displays instead of hearing loops to communicate equivalent message (sub. 14, p. 4);
- stair requirements for trains — the requirement for the width of stairs in train carriages (Part 14.3) is based on compliance with Australian Standard 1428.1 and relates to stair construction, handrails and nosing on stairs. The ARA applied for an exemption to these requirements on the basis that the required width of the stairs was too wide for a train carriage (particularly given required width of access paths around stairs on train carriages) (ARA, 2006); and
- toilet requirements for train services — the requirements around accessible toilets on train carriages is based on compliance with Australian Standard 1428.2. In their exemption application to the AHRC, the ARA proposed a performance-based approach to this requirement, based on the difficulties that providers were having in applying the requirements to the dimensions of a train carriage, particularly in States and Territories where the rail gauge is relatively narrow (ARA, 2006).

Box 7.1

ALLOCATED SPACE FOR A WHEELCHAIR OR SIMILAR MOBILITY AID

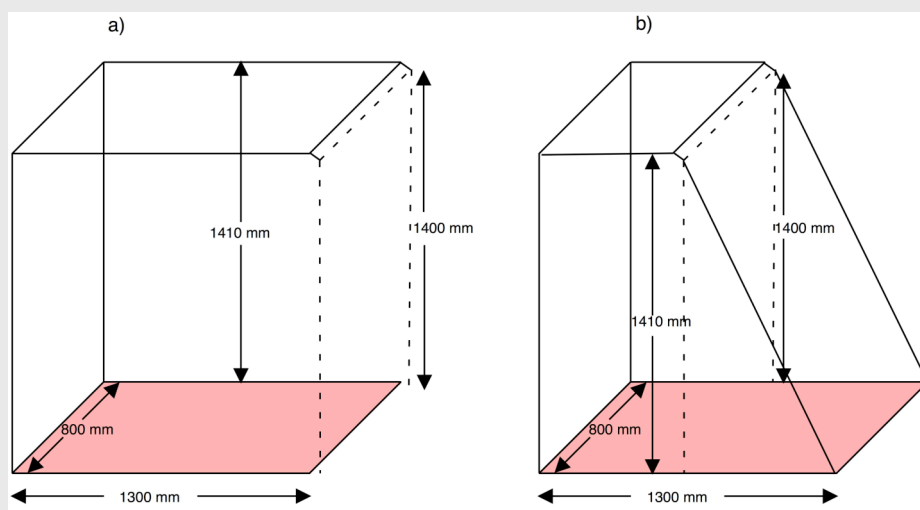
The Transport Standards (Part 9.1) require an allocated space for a wheelchair or similar mobility aid in any mode of conveyance to have:

- a doorway with an unobstructed vertical height of at least 1400 mm; and
- a ground space of at least 800 mm by 1300 mm

It is further required (Part 9.3) that the allocated space in a WAT has a minimum headroom of 1410 mm and (Part 11.1) that the resulting allocated space be a three dimensional space that can accommodate a wheelchair or similar mobility aid.

Figure a) illustrates how these requirements were intended to be applied to the allocated space in a WAT. However, the current way that the requirements are set out in the Transport Standards means that it is possible to produce or alter a vehicle that fulfils all of the Transport Standards requirements with regards to the dimensions of an allocated space but results in a space that cannot accommodate standard size wheelchairs or similar mobility aids — i.e. wheelchairs and scooters that conform to the Australian Standards (AS3696). Figure b) illustrates how the requirement may be applied to achieve this undesirable outcome. This problem occurs when the model that is being retrofitted into a WAT has a sloping back door, which when closed encroaches on the space within the back of the WAT.

It was noted by many people with disability at public hearings that the requirement of a three-dimensional space over a ground space in the Transport Standards would be a considerable improvement.



Source: ACG Analysis of Transport Standards Guidelines

These are examples where the technical requirements in the Transport Standards have been found to be incorrect or ineffective for all or some components of public transport. These have been identified by stakeholders with the benefit of five years experience in implementing the Transport Standards. There are other examples of technical difficulties with the Transport Standards, which are provided in Appendix C of this report. These instances are examples where the regulatory approach is correct — for instance, it remains appropriate that the Transport Standards specify the size of the wheelchair space in a WAT — but the current requirements are not correctly specified.

Parts where the current prescriptive approach is inappropriate

In addition to the examples where guidance was inaccurate within the Transport Standards, stakeholders identified areas within the Transport Standards where the prescriptive approach used in the Transport Standards is not appropriate. These areas are typically where the Transport Standards set a technical requirement across several modes of transport, which poses a problem for some modes (due to particular characteristics of that mode). Some examples of such difficulties include:

- resting points for aircraft — Part 5.1 of the Transport Standards specify that any access path in excess of 60 metres needs to provide resting points with seats. This level of prescription is inappropriate for airlines, in particular those with aircraft that are boarded from the tarmac, because it would mean that seats would need to be provided on the tarmac. (Mt Gambier Airport, Mt Gambier Hearing Transcript);
- lighting requirements for train and tram infrastructure — the Transport Standards set requirements for lighting at transport infrastructure, primarily to assist people with a vision impairment (Part 20.1). For trains, this requirement applies to all areas of stations, including platforms. For trams this requirement relates to lighting around tram stops. This requirement has been identified by public transport providers and State and Territory government agencies as being impractical for the train and tram environment. Specifically, there are concerns that the required lux level is too bright for platforms and tram stops, which could lead to interference with the vision of train and tram drivers (sub. 7. p.9); and
- boarding devices for aircraft — one submission highlighted that all aircraft have a defined width of the access door dictated by airworthiness design constraints. Boarding devices must fit within these doors and cannot exceed the width of the access point. However, Part 8.5 of the Transport Standards specifies that a boarding device must be a minimum of 800 millimetres wide. This level of prescription is inappropriate as doors on smaller regional planes, for example, the SAAB 340, have an access door width of only 690 millimetres (Saab 2007).

These examples highlight the problems that result from setting prescriptive requirements across multiple modes of transport in an effort to achieve the same outcome. The lighting example highlights the difficulty in setting such a requirement across a broad set of public transport infrastructure, without taking into account mode specific characteristics (i.e. that some infrastructure encompasses both indoor and outdoor areas). Setting prescriptive regulation, by definition, allows little flexibility across a heterogeneous group of providers and is unlikely to lead to an effective outcome (as shown in Figure 8.1).

References to Australian Standards

A number of Parts of the Transport Standards include an additional level of prescription with a reference to an Australian Standard. An Australian Standard is a published document produced by Standards Australia, setting out specifications and procedures designed to ensure that a material, product, method or service is fit for its purpose and consistently performs in the way it was intended. Table 7.2 lists the references to Australian Standards within the Transport Standards. Australian Standards are used broadly across the Transport Standards, with particular focus on access paths, ramps and stairs, symbols and toilets.

Table 7.2

REFERENCE TO AUSTRALIAN STANDARDS WITHIN THE TRANSPORT STANDARDS

Australian Standard	Referenced in Transport Standards
Australian Standard 1428.1 — <i>Design for access and mobility. Part 1: General requirements for access — New building work</i> , 2001	Part 9.10, Part 11.4, Part 14.2, Part 14.3, Part 15.1, Part 15.4, Part 16.1, Part 21.1 and Part 21.3.
Australian Standard 1428.1 Supplement 1 — <i>Design for access and mobility. Part 1: General requirements for access — Buildings — Commentary, (Supplement to AS 1428.1 — 1993)</i> , 1993	Part 10.1.
Australian Standard 1428.2 — <i>Design for access and mobility. Part 2: Enhanced and additional requirements — Buildings and facilities</i> , 1992	Part 2.1, Part 2.2, Part 2.4, Part 3.1, Part 4.1, Part 4.2, Part 5.1, Part 6.1, Part 6.4, Part 8.7, Part 8.8, Part 9.1, Part 9.2, Part 10.1, Part 11.1, Part 11.3, Part 11.5, Part 11.7, Part 12.2, Part 12.4, Part 14.2, Part 14.3, Part 16.1, Part 17.1, Part 17.2, Part 17.3, Part 18.1, Part 19.1, Part 20.1, Part 20.2, Part 21.2, Part 21.3, Part 21.4, Part 22.1, Part 22.3, Part 23.1, Part 24.1, Part 25.3, Part 25.4, Part 26.1, Part 26.2 and Part 29.2.
Australian Standard 1428.4 — <i>Design for access and mobility. Part 4: Tactile ground surface indicators for the orientation of people with vision impairment</i> , 1992	Part 18.2, Part 18.4 and Part 18.5.
Australian Standard 1735.12 — <i>Lifts, escalators and moving walks. Part 12: Facilities for persons with disabilities</i> , 1999, as amended by Amendment No. 1 to AS 1735.12, 1999	Part 13.1.
Australian Standard 2899.1 — <i>Public information symbol signs. Part 1: General information signs</i> , 1986	Part 16.2.
Australian/New Zealand Standard 3856.1 — <i>Hoists and ramps for people with disability — Vehicle-mounted. Part 1: Product requirements</i> , 1998	Part 6.2, Part 6.4 and Part 8.2.
Australian Design Rule 58 — <i>Requirements for omnibuses designed for hire and reward</i> , as amended to include <i>Road Vehicle (National Standards) Determination No 2 of 1992</i>	Part 14.4.

Source: Disability Standards for Accessible Public Transport 2002.

The use of references to Australian Standards in the Transport Standards was an issue raised by several stakeholders in public hearings and submissions. Many stakeholders expressed the view that the references to Australian Standards should be removed. These views were primarily based on the following issues.

- The use of outdated Australian Standards as a reference within the Transport Standards. It is a legislative drafting requirement that a specific Australian Standard is referenced, including the year in which the standard was introduced. As a result, the most up-to-date Australian Standards may not be the basis for compliance referenced in the Transport Standards (Paul Lacombe, Brisbane Hearing Transcript). A number of stakeholders highlighted this as a point of confusion for public transport operators.
- The use of Australian Standards that are not appropriate for public transport. The Australian Standard 1428.2 (1992) was designed for use in buildings and is readily used by Building Codes Australia to assess accessibility compliance in buildings. However, several stakeholders commented that transferring the use of Australian Standards for buildings to modes of public transport is inappropriate. The examples used above relating to stair and toilet requirements on train services are a prime example of the inappropriate use of building standards on trains.
- A lack of innovation stemming from the use of the Australian Standards — stakeholders highlighted that several means could be used to address some of the prescriptive Transport Standards where an Australian Standard is referenced. The required compliance with the Australian Standard was thought to restrict public transport operators from using more innovative means to achieve a similar outcome.

Furthermore, many stakeholders also raised access to the Australian Standards as an issue. Two major groups need to access the Australian Standards:

- public transport operators and local governments may need access to the Australian Standards to ensure that they are compliant with the Transport Standards; and
- people with disability who use public transport may need to access the Australian Standards as the Transport Standards rely on a system of complaint to monitor compliance. People with disability may need to see the Australian Standards to understand and evaluate their expectations before making a complaint.

Although the Australian Standards are available on the Internet, they come at a cost — for example, a copy of Australian Standard 1428.2 (1992) costs between \$95 and \$105 (depending on the format) (SAI Global 2007). While these costs are not prohibitive for operators, they can be for people with disability or other consumers of public transport. For these groups to be able to understand their rights under the DDA and the Transport Standards, the Australian Standards requirements need to be accessible, or the way in which requirements are presented needs to be improved.

Performance-based requirements in the Transport Standards

There are some Parts of the Transport Standards that include performance-based requirements. Table 7.1 highlights the areas within the Transport Standards that include performance-based requirements. Although the majority of performance-based requirements are mixed in with prescriptive requirements, there are a number of Transport Standards that are solely performance-based, including booked services and belongings.

There are some areas within the Transport Standards where a performance-based regulatory style appears to have been appropriate, providing operators with flexibility to achieve outcomes using their own methods. Some examples where a performance-based approach has worked include:

- payment of fares for all methods of public transport — Part 25.2 of the Transport Standards outlines requirements for the payment of fares. The standards state that ‘fare payment and ticket validation must not require actions from passengers with disabilities that exceed the requirements for other people’. This requirement allows operators the flexibility to provide a validation or payment system that suits their needs as well as providing access for people with disability; and
- booked services for a number of transport services — a small number of public transport operators identified that the performance-based requirements that specify the requirements for booked services, enable operators of aircraft, coaches, ferries, dial-a-ride services and trains to determine the appropriate level of advance notice needed for people with disability. In most cases the level of advance notice for people with disability is restricted only by the requirement that it must not exceed the level of notice required by other passengers.

In addition to these areas where performance-based requirements were seen to be working, there were a number of areas identified by stakeholders where performance-based Transport Standards were considered inappropriate, with more prescription required. One example of an area of the Transport Standards that requires more prescription is response times for wheelchair accessible taxis (Box 7.2).

Box 7.2

RESPONSE TIMES FOR WHEELCHAIR ACCESSIBLE TAXIS

Schedule 1 of the Transport Standards requires that 'response times for accessible vehicles are to be the same as for other taxis' by 31 December 2007. The performance-based nature of this requirement has created confusion between operators and people with disability. The difference in the definition of 'response time' is as follows:

- a passenger with a disability may assume that the term 'response time' as applied in the context of waiting for a taxi would mean the time the passenger ordered or called for a taxi until the time the taxi arrives for pick up; and
- the taxi industry however, defines 'response time' as being the time the taxi receives the job from the dispatch system until the time the person is picked up.

Stakeholders who represent people with disability reported that, depending on whether an accessible taxi is close enough for a driver to accept the job, a passenger can wait hours after ordering a taxi until the driver accepts the job from the dispatch system. This time is not currently included in accessibility data.

This significant difference in definition requires greater prescription. Stakeholders identified that this could be undertaken in two ways, either:

- include a definition of 'response time' in the Transport Standards; or
- prescribe the proportion of accessible taxis that are required within a taxi fleet as a means of increasing response times.

Source: sub. 27, p. 2.

Other examples where stakeholders commented on the inappropriate use of performance-based regulation include:

- access to information about transport services — Part 27.1 of the Transport Standards states that 'general information about transport services must be accessible to all passengers'. One stakeholder noted that compliance with this Transport Standard was failing because there was no guidance on how to make information accessible to people with different disabilities (sub. 32, p. 7). Other stakeholders suggested that in this case, more prescriptive guidelines on the types of formats required for people with a vision and/or hearing impairment would assist public transport operators and result in greater compliance; and
- carriage of disability aids on aircraft — Part 30.1 of the Transport Standards outline that disability aids are to be in addition to normal baggage allowances. However, there is no limit to the number, size or weights of disability aids that can be stowed as baggage. A number of airline operators identified that the performance-based nature of this requirement is too broad and, as a result, introduced their own limits on the size and height of mobility devices that they can carry on different aircraft due to the size of the entrance to the cargo hold. Further, some airlines now limit the weight and number of mobility aids that they will carry per passenger as luggage without excess baggage charges on a single flight. Given most airlines have introduced limits on the carriage of disability aids, some stakeholders suggested that greater prescription for this Transport Standard would assist in making these limits consistent across airlines and jurisdictions.

7.4 Alternatives to a regulatory approach

There are alternatives to explicit government regulation that, in certain environments, may be as effective at achieving improvement in community welfare and increase equity in opportunity and outcomes. There are two key examples of regulatory alternatives that are discussed in greater detail in the sections below — co-regulation and non-regulatory approaches.

Co-regulatory approach

A co-regulatory approach is one where the regulatory role is shared between the government and the industry sector or a representative body. The industry sector develops and administers its own arrangements, but government provides legislative backing to enable the arrangements to be enforced. This is known as the ‘underpinning’ of codes or standards (Office of Best Practice Regulation 2007).

Co-regulation allows greater flexibility for the industry sector. However, in the majority of co-regulatory arrangements legislation is also provided for government-imposed arrangements in the event that industry does not develop arrangements of its own or to an appropriate standard. A typical co-regulatory approach is the use of a set of industry-defined codes of practice.

There are a number of ways in which government can provide legislative support to industry-based co-regulation. Using the example of an industry code of practice, the government can:

- delegate power to industry to regulate and enforce codes;
- enforce undertakings to comply with a code;
- incorporate a reserve power to have a code;
- require industry to have a code but, in its absence, government may impose a code; and
- prescribe industry codes as voluntary or mandatory (Office of Best Practice Regulation 2007).

Co-regulation versus explicit government intervention

In comparing a co-regulatory approach to explicit government regulation, the advantages of co-regulation are that it:

- makes best use of expertise within the industry, particularly in relation to technical requirements;
- shares responsibility between industry and government for meeting the regulatory objective, where industry is encouraged to take greater responsibility for the behaviour of the sector and to rule on matters best determined by peer groups;
- requires fewer government resources;
- maintains legislative backing, which in some cases may increase compliance over a self-regulatory or non-regulatory options; and
- supports independence and accountability of the professions or industry.

Potential disadvantages of co-regulation include:

- greater monopoly power within industry which may enable market participants to restrict competition;
- reduced diversity of services or products provided by the industry or profession;
- increased barriers to entry, such as through standards or education requirements, which may be over and above what is required to protect consumers;
- bias to industry interests — agencies may become captured by industry interests, promoting the interests of that group at the expense of the community at large; and
- potential for unclear accountability for failure — co-regulatory schemes do not always have accountability processes in place for non-compliance; (Victorian Office of Regulatory Reform, no date).

A co-regulatory approach is an effective form of government intervention when the industry environment is one with strong industry representation, where incentives are clear and self-enforcing, where professional independence is a major consideration and where there are strong commonalities across the industry sector. One example in the transport industry of co-regulation is in rail safety. The co-regulation process for rail safety in Australia is outlined in Box 7.3.

Box 7.3

A CO-REGULATORY EXAMPLE — RAIL SAFETY IN AUSTRALIA

Rail safety in Australia is defined within a co-regulatory approach to government intervention. The co-regulatory process applied in Australia includes the following components for the three major players — the track manager, the train operator and the accreditation authority

- the track manager/ train operator undertakes a risk assessment
- the track manager/train operator is accountable for developing a safety management plan and safety management system that includes appropriate safety standards and performance targets
- the Accreditation Authority reviews the safety management system for soundness and compliance with Australian Standard 4292 in order to grant accreditation
- once accredited the track manager/train operator implements its safety management system. The track manager/train operator is accountable to manage, monitor and audit its own safety performance against the accredited safety management system and safety standards
- the Accreditation Authority regularly audits the track manager/train operator to see it is complying with the accredited safety management system. There is an emphasis on a continuous process rather than spot checks on particular components of the systems. Audits preferably focus on ensuring that procedures and processes are being adhered to and that they are effective
- the accreditation authority monitors safety performance through occurrence reports and trend analysis
- all occurrences are investigated by the track manager/train operator to assess system performance and the Accreditation Authority may arrange an independent investigation and
- the track manager/train operator regularly reviews its safety management system and makes improvements.

The primary responsibility and accountability for safety always rests with the accredited track manager/train operator.

Source: Accreditation Authorities Group, 2001

Co-regulation as an option for the Transport Standards

Several stakeholders mentioned the use of co-regulation as both an alternative to the Transport Standards and as a model for guidelines supporting the Transport Standards. A joint industry submission recommended that ‘a process should be established for industries, through their national peak bodies, to develop co-regulatory arrangements for the application and amendment of the Transport Standards as they apply to their respective sector’ (sub. 20, p. 2).

Comments on the Draft Report for this review sought further analysis of a co-regulatory option. In particular, the Australasian Rail Association commented:

The ARA strongly advocates the establishment of a co-regulatory framework and recognition of mode-specific Codes of Practice as the best way of resolving key issues with the DSAPT in the rail sector. (subDR31, p.1).

In its 2004 review of the DDA, the Productivity Commission supported the development of industry codes of conduct as a means of industry developing their own approaches to complying with the DDA. The Commission suggested that the AHRC could be given a role to register codes of conduct, which are voluntarily developed by industry. These may or may not include processes for managing complaints. The arguments provided by the Commission for supporting such an approach are consistent with the key benefits of co-regulation (including flexibility and industry engagement). It is important to note, however, that in this instance co-regulation was not supported as a replacement for standards under the DDA.

Analysis in the Draft Report did not consider that a co-regulatory approach would be an appropriate alternative to the Transport Standards (i.e. industry codes of practice to replace the current Transport Standards). While some modes of transport, such as rail and buses, have the necessary industry leadership, others are less likely to have the necessary resources to develop and maintain their own codes of practice.

However, the Transport Standards and access to public transport for people with disability are not examples of an environment where co-regulation would flourish. A co-regulatory approach is most appropriate for guidelines or codes under the Standards which include practical guidance on compliance. In this case, it is also paramount that disability groups also have input into how the Transport Standards should be applied.

Non-regulatory approaches

Further to a co-regulatory approach, another alternative to explicit government regulation is non-regulatory intervention. Some examples of non-regulatory intervention include:

- *no specific action* — where government relies on the existing market in conjunction with existing laws to solve any issues and correct itself;
- *information and education campaigns* — that do not require legislative arrangements and can influence the public or a specific industry as a means of intervention;
- *market-based instruments* — such as taxes, subsidies, licensing and user charges as a means of providing incentives, and altering the costs and benefits of specific actions to change individual or industry behaviour;
- *codes of conduct or practice* — a similar form of intervention as described in co-regulation, where an industry sets its own standards. However, in this approach there is no government backing as a safety net;
- *Action Plans* and compliance reporting — codes of conduct or practice may include Action Plans to determine how stakeholders will address areas of voluntary compliance or reporting requirements to assess the level of stakeholders' compliance; and
- *voluntary standards* — standards developed by Standards Australia, which are a non-regulatory approach as a stand-alone method of intervention unless attached to government regulation — as is the case in the Transport Standards (Australian Government 2007, *Best Practice Regulation Handbook*, Canberra, p. 101).

Non-regulatory intervention as an option for the Transport Standards

A non-regulatory approach to government intervention alone is counterintuitive to explicit government intervention and is an effective form of intervention only when equity in opportunities and outcomes will be preset within the sector without the need for explicit government intervention. Although this is not the environment in which the Transport Standards sit, there are areas where a non-regulatory approach could be used as a complementary intervention tool to explicit government regulation.

A number of stakeholders highlighted areas where a non-regulatory approach could be used in conjunction with the current Transport Standards. For example, several State and Territory governments suggested the use of Action Plans as a means of public transport operators identifying how they plan on achieving access for people with disability in their jurisdiction (sub. 90, p. 6). In addition to Action Plans some stakeholders identified that a means of official compliance reporting would assist in matching the level of actual compliance with the goal stated in an action plan over a given timeframe (sub. 11, p. 2 and sub. 81, p. 4). These stakeholders identified compliance reporting as an area that has not been effectively managed in the five years since the introduction of the Transport Standards.

One other stakeholder suggested the use of an education campaign as a complement to the Transport Standards so that all stakeholders have the opportunity to clarify issues and gather information in relation to their unique circumstances (sub. 50, p. 32).

7.5 Conclusions

There is a clear rationale for government to intervene to remove discrimination on the basis of disability for access to public transport. It is unlikely that, without some form of government action, people with disability would have access to public transport on the same basis as all other people. The Australian Government has recognised this need with the DDA and the Transport Standards.

The analysis in this chapter addresses several key issues for this review, in particular whether the current regulatory approach is effective, and whether there are co-regulatory and non-regulatory options.

Is the balance of regulatory approach in the Transport Standards effective?

The experience of the first five years of implementing the Transport Standards has provided a valuable, practical perspective on their effectiveness. This experience suggests that, on the whole, providers are seeking certainty from the Transport Standards, and thus prefer a degree of prescription from them. Where there are performance-based requirements in the Transport Standards, the feedback from stakeholders was that more guidance and certainty would be valuable. That said, prescription in the Transport Standards has been problematic for two key reasons:

- for some requirements the current requirements are incorrect and are producing poor outcomes; and
- the current structure of the Transport Standards around components rather than modes of transport means that some prescriptive requirements are being applied across several modes, in some cases inappropriately.

The first issue is a matter of technical review and amendment to the specific Parts of the Transport Standards. The second is a large issue around the structure of the Transport Standards and how they are applied. It is likely that this problem could be addressed through mode specific prescription (such as in codes), rather than prescription at a broad level.

A further problem in the current regulatory approach is the use of Australian Standards as a reference within the Transport Standards. A large number of stakeholders highlighted the issues in the currently limited access to the Australian Standards.

Co-regulatory and non-regulatory options

This chapter also considered some alternative approaches to explicit government regulation, including co-regulatory and non-regulatory approaches. Although some stakeholders identified areas where co-regulation could be used as an alternative to the current approach, access to public transport for people with disability is not a sector where co-regulation would flourish because there is strong transport industry representation, there are weak commonalities across the sector (for example, by conveyance), and access to public transport is not an area where incentives are clear or where self-enforcement is expected to be reliable. However, some non-regulatory approaches to explicit government intervention, such as Action Plans and compliance reporting requirements could be used as a complement to the current regulatory approach.

Chapter 8

Scope of the Transport Standards

Key findings

- The scope of the Transport Standards determines the extent to which they have an influence, and thus is a determinant of effectiveness.
- Exclusions, exemptions, claims of unjustifiable hardship and the use of equivalent access provisions all influence the extent to which particular sectors, modes of transport or components of public transport systems are captured by the Transport Standards.
- The current exclusions are predominantly supported by stakeholders, and are based on reasonable technical or logistical concerns about the ability of excluded sectors to reasonably meet the requirements of the Transport Standards.
- Stakeholders have differing views on the exclusion of dedicated school bus services from 26 Parts of the Transport Standards.
- The Draft Report for this review contended that the exclusions are not based on any discernable difference between the nature of school bus services and route bus services, and place cost pressures on education authorities and parents, and also has broader implications for communities, particularly in rural and regional areas.
- State and Territory governments argue that the costs of removing the exclusions are not justified by the benefits to a small number of students with disability.
- Temporary exemptions have primarily been utilised by smaller regional providers, with the exception of the large ARA exemption, which extended the scope of the temporary exemption process.
- Current utilisation of unjustifiable hardship provisions is unclear because there is no registration or other means to lodge a claim, other than in the process of a legal hearing.
- It is likely that there are providers who currently believe that they have a claim of unjustifiable hardship, but have not, as yet, been required to make one. Providers report that they are reluctant to rely on a claim of unjustifiable hardship because of the uncertainties about whether a claim will be accepted.
- Equivalent access provisions are being utilised by some providers, such as through staff assistance or substitution of one type of service for another accessible one. Providers did, however, comment that there is currently a disincentive to use equivalent access provisions because there is currently no mechanism to confirm that these provisions are compliant with the Transport Standards.

8.1 Introduction

The Transport Standards establish requirements for public transport providers to meet their obligations under the DDA. There are several mechanisms within the Transport Standards that influence their scope — that is, what they do and do not apply to. These include:

- exclusions that were agreed at the time of drafting of the Transport Standards;
- temporary exemptions that have been granted since the introduction of Transport Standards;
- the ability of providers to not meet the requirements in the Transport Standards by claiming unjustifiable hardship; and
- the ability of providers to use equivalent access provision to meet their obligations.

The scope of a regulatory instrument impacts on its effectiveness because it determines what it can and cannot influence — the degree to which it can change behaviours in society to meet its objective. Where this scope is narrowed by excluding or exempting activities or parties, effectiveness can be negatively impacted. On the other hand, such adjustments may be warranted where it can be shown that including these activities or parties will not provide a net benefit.

This chapter discusses the current scope of the Transport Standards, and how it influences their effectiveness. It also provides a discussion of those factors that stakeholders report have an influence on accessibility, but which are outside the current scope of the Transport Standards.

8.2 Exclusions from the Transport Standards

There are currently exclusions to certain Parts of the Transport Standards for:

- limousines, hire cars⁵ and charter boats
- dedicated school bus services
- small aircraft (defined as less than 30 passenger capacity)
- airports that do not accept regular public transport services and
- community transport services for targeted groups of people.

The reasons behind each of these exclusions, and stakeholder views on their impact, are discussed in the following sections.

Limousines, hire cars and charter boats

Limousines, hire cars and charter boats are excluded from all Parts of the Transport Standards based on the view that pre-booked, unique and premium services are unlikely to be used as a mode of public transport as defined by the Transport Standards (Attorney-General's Department, 2006). This exclusion is reasonably uncontroversial, however, a small number of hearing participants raised the following issues:

- the exclusion of limousines and hire cars ignores the growing convergence between the taxi and the limousine and hire car markets
- given the scarcity of public transport options in rural and regional areas hire cars are an important transport alternative that should be accessible to all and
- the ambiguity of distinctions between charter boats, charter planes and charter buses.

The evidence presented does not provide a strong case to remove the exclusion for limousines and hire cars, particularly given the role of accessible taxis in providing accessible options for people with disability. In relation to the treatment of charter boats, there is no support for the removal of this exclusion, though there is support for consistent treatment of charter planes and boats.

⁵ Hire cars refers to chauffeured car services such as corporate cars.

Dedicated school bus services

A dedicated school bus service is defined in the Transport Standards as a service that operates to transport primary or secondary students to or from school or for other school purposes (Part 1.13). These services are excluded from 26 parts of the Transport Standards, as detailed in Table 8.1.

Table 8.1

EXCLUSIONS FROM THE TRANSPORT STANDARDS FOR DEDICATED SCHOOL BUSES

Transport Standards Part	Notes
3.2 Access for passengers in wheelchairs	Requires that passengers in mobility aids must be able to enter and exit a conveyance and position their aids in allocated spaces
6.2 Boarding ramps	Specifies that a boarding ramp must comply with the relevant Australian Standard
6.3 Minimum allowable width (ramps)	-
6.4 Slope of external boarding ramps	Specifies the slope of boarding ramps, for both assisted and unassisted access
8.2 When boarding devices must be provided	-
8.3 Use of boarding devices	Specifies that the boarding device must be provided at all designated stops
8.4 Hail-and-ride services	Specifies the use of boarding devices for Hail-and-ride services
8.5 Width and surface of boarding devices	-
8.6 Maximum load to be supported by boarding device	-
8.7 Signals requesting use of boarding device	-
8.8 Notification by passenger of need for boarding device	-
9.1 Minimum size for allocated space	-
9.4 Number of allocated spaces to be provided – buses	-
9.7 Consolidation of allocated space	Suggests that allocated spaces should be consolidated
9.9 Use of allocated space for other purposes	Specifies that allocated spaces can be used for other purposes
9.11 Movement of mobility aid in allocated space	Specifies that an allocated space must contain movement of a mobility aid towards the front or sides of a conveyance
10.1 Compliance with Australian Standard (surfaces)	Specifies the ground and floor surfaces on conveyances
11.3 Handrails on steps	-
11.4 Handrails above access paths	-
11.5 Compliance with Australian Standards (grabrails)	Specifies that grabrails must comply with the relevant Australian Standard
11.6 Grabrails to be provided where fares are to be paid	-
11.7 Grabrails to be provided in allocated spaces	-
12.1 Doors on access paths	Requires that any doors along an access path not present a barrier to independent travel
12.4 Clear opening of doorways	-
12.6 Automatic or power-assisted doors	-
14.1 Stairs not to be sole means of access	-

Source: Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3), p. 49.

The exclusions set out in Table 8.1 effectively mean that dedicated school buses are excluded from all physical access requirements in the Transport Standards. That is, dedicated school buses are not required to:

- provide a boarding device for people using mobility aids
- provide handrails or grabrails
- provide any allocated spaces for people with mobility aids
- include appropriate surfaces or
- provide automatic or power-assisted doors, or have doorways of a specific width to assist people with mobility impairments.

Table 8.2 lists those Parts of the Transport Standards that apply to dedicated school bus services.

The rationale behind the exclusions

The exclusion of dedicated school buses from physical access parts of the Transport Standards was a response to the identified costs of these particular parts, which require investment in low-floor buses or retro-fitting of coaches. While not a full exclusion, the remaining applicable parts only provide a small degree of accessibility, primarily to those students with a vision impairment (through the requirements around signs, illumination and information). The exclusions remove any requirement that dedicated school buses are accessible for any student using a mobility device, or any student who has a mobility impairment which means that they cannot negotiate a series of stairs to enter and exit the bus (particularly as there is no requirement for handrails or grabrails).

The RIS for the proposed Transport Standards estimated that the costs of making dedicated school buses fully compliant with the Transport Standards would be \$1265 million over 20 years (1998 prices) (Attorney-General's Department, 1999), which would be incurred by a large number of small bus operators. These costs were deemed to be extremely high. It was further argued by school bus service operators that:

- they are small business people, generally using older and often second-hand vehicles, turning them over less frequently;
- there is little or no demand for accessible services, the cost is not warranted by the limited demand;
- it is unlikely that there would be [an] accessible pathway between the bus stop and home so that improvements to buses would not be utilised; and
- bus stops are generally unformed, sometimes merely the space required for the bus to pull over on the roadside (Attorney General's Department, 1999).

It is also noted on the Attorney-General's Department's website that the reason for the exclusions for dedicated school buses were a response to problems associated with operating low-floor buses on 'difficult terrain' (Attorney-General's Department, 2006).

Table 8.2

THE TRANSPORT STANDARDS THAT APPLY FOR DEDICATED SCHOOL BUSES

Transport Standards Part	Notes
2.6 Access paths – conveyances	-
2.7 Minimum width between front wheel arches of bus	-
2.8 Extent of path	-
9.10 International symbol of accessibility to be displayed	Not applicable for buses without wheelchair accessibility
16.1 International symbol for accessibility and deafness	-
16.2 Compliance with AS2899.1 (1986)	-
16.3 Accessibility symbols to incorporate directional arrows	
16.4 Accessibility symbol to be visible on accessible bus	
17.1 Signs – height and illumination	
17.3 Signs – location (conveyances)	
17.4 Destination signs to be visible from boarding point	-
17.6 Raised lettering or symbols or use of Braille	-
19.1 Emergency warning systems	
20.2 Illumination levels – conveyances	-
20.3 Dimming	-
21.2 Passenger-operated devices for opening and closing doors	
21.3 Location of passenger-operated controls for opening and locking doors	-
21.4 Signal devices for conveyances that stop to request	-
25.1 Passengers to pay fares	Limited applicability
25.2 Fare payment and ticket validation systems	Limited applicability
25.3 Vending machines	Not applicable on school services
26.2 Public address systems – conveyances	Not applicable as address systems are not used
27.1 Access to information about transport services	
27.2 Direct assistance to be provided	
27.3 Size and format of printing	
27.4 Access to information about location	
29.1 Equal access to food and drink services	Not applicable as food and drink services are not provided on school services
31.1 Priority seating	Not applicable as school services do not have booked seating
31.2 Information to be provided about vacating priority seating	Not applicable as per 31.1

Source: Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3), p. 49.

Analysis of this issue in the RIS for the Transport Standards considered that para-transport solutions would be more cost effective than upgrading school buses. The RIS recommended that school buses be considered in Action Plans of States and Territories, with the view to further considering options of making school bus services accessible in the future. In spite of this suggestion, recent Action Plans released have not progressed this issue further; indeed it appears that the majority of

stakeholders consider the exclusions for dedicated school buses to be a full exclusion from the Transport Standards. For example, the Victorian government Action Plan notes that the issue of school buses is not considered in the Action Plan because school buses are ‘excluded from the Transport Standards’ (Victorian Department of Infrastructure, 2006 p. 5).

The impact of the exclusions

In submissions and public hearings for this review, several stakeholders expressed concern about the impact of the exclusions for dedicated school buses. Most stakeholders who commented on this issue considered there to be a full exclusion, rather than partial exclusion as noted above. As noted in the Canberra hearing:

The decision to excise dedicated school buses from the standards is just mind boggling to me. It’s a missed opportunity to use the leveraging power of government spending to get bus operators, manufacturers and designers to start thinking about access and spread that beyond the bus fleet. (Craig Wallace, Canberra Hearing Transcript, p. 10)

While the current exclusions of dedicated school buses do provide a cost saving (through avoided costs of retro-fitting coaches or purchasing low-floor buses), there are other costs incurred due to students with mobility impairment not being able to access dedicated school buses. Currently, some students with disability who are not able to access school bus services receive subsidies to cover costs of alternative transport. The extent to which this support is available varies considerably by jurisdiction. For instance, in some jurisdictions funding is only provided for students in government schools, whereas in others, funding is also available for students who attend non-government schools. Costs of upgrading school buses therefore needs to be considered in the context of:

- on-going costs of government programs that could be significantly reduced if dedicated school buses were upgraded over a 20-year period; and
- reduced cost for parents who currently have to provide private transport for their children, where government subsidy is not available.

In addition, the recent trend of students with disability attending mainstream schools (with reduced use of special schools) provides further evidence that providing a transport service that accommodates all students (as they are travelling to the same destination) is likely to be a more cost effective solution in the longer term. (Allen Consulting Group 2003, p. 50)

This review also received comments from stakeholders about the current gap in assistance for students who wish to participate in vocational education once they have completed school, but have no transport assistance to do so. This issue is particularly important in rural areas, where taxis or other para-transport is funded for students to complete high school, but is not available for tertiary students. While tertiary students in rural areas are able to use the school bus service to travel to TAFE or university, this is not an option for students with a mobility impairment.

The exclusions granted for dedicated school buses have broader implications, outside of their impact on students with disability. Rural and regional areas are where the majority of bus services are provided as dedicated school bus services. Wellington Shire Council, for example, reports in their submission that there are 62 school buses, two route buses and a V/Line replacement service operating in the Shire. As noted below, the preponderance of public transport in rural and regional Australia is inaccessible.

The few town and route services that are provided in 'rural' communities mostly utilize school buses during down time. Because of the exemption from DDA legislation there is no requirement or incentives for local operators to provide 'accessible' transport in rural remote areas. (sub. 14, p. 7)

Exclusions for dedicated school bus services put undue pressure on the taxi industry to provide accessible transport for school students, reducing its capacity to meet the demands of other WAT users before and after school. Many people with disability that rely on WATs reported that they are generally unavailable for a period in the morning and afternoon when they are doing prearranged school trips for students in wheelchairs. This problem is pronounced in regional centres (such as Launceston) where there are fewer WATs and a lack of other accessible options.

Exclusions for dedicated school bus services also raise concerns about the practice of allowing other patronage on school services. In rural and regional areas it is common practice for non-school students to also use the service to get into town. It is currently not clear if, in allowing other patronage on a school bus service, the service remains a dedicated school service or becomes a general access service. If dedicated school bus services that provide a service to other patrons are considered to be providing a general access service, companies may be forced to stop the practice to avoid being subject to the requirements of the Transport Standards.

The reasons given in the RIS on Draft Disability Standards for Accessible Public Transport (Attorney-General's Department, 1999) for excluding school bus services (as outlined above) do not provide a strong case for maintaining the exclusions. There are many similarities between dedicated school bus services and general access services. Many general access bus companies are small businesses, which operate on rural roads with the same terrain issues as the dedicated school bus services. Further, a lack of patronage was not considered a sufficient reason for exclusion of any other type of public transport service during the development of the Transport Standards (nor are the objectives of the Transport Standards couched in terms of whether there is sufficient patronage). In addition, it is unclear on what basis it was determined that there was no demand for accessible school bus services.

Arguments about a lack of bus stop infrastructure also ignore the fact that bus stop infrastructure is required to be upgraded for route services in the same regions. Finally, the reasoning behind the exclusions was not that they would provide exclusions, but rather that further assessment and consideration would be made to making dedicated school bus services accessible in the future. Unfortunately, the experience has been that stakeholders, including State and Territory governments, have progressed on the basis that dedicated school bus services are fully excluded.

The current distinction made in the Transport Standards creates market distortion and encourages rent seeking behaviour by reducing the incentives for providing route bus services over school bus services because of the differential requirements. This outcome limits the effectiveness of the Transport Standards. It is also particularly concerning that despite the implementation of the Transport Standards, and the Disability Standards for Education, there is no requirement to remove discrimination against students with disability by providing accessible transport for them to travel to and from school (though most States and Territories fund some form of transport, usually taxis, for students in wheelchairs).

In their submissions on the Draft Report, State and Territory Governments raised low patronage as a reason to keep the exclusions. The Victorian Government reported in their submission on the Draft Report that since 2000 the number of students requiring accessible school transport has been fewer than ten at any one time. This represents approximately 0.01 per cent of the 71 000 students who use the school bus system. Currently Victoria has a fleet of 1540 school buses, only nine of which are wheelchair accessible (sub DR54, p.17). Similarly, the South Australian Government provides 519 regular school bus services and in 2008 provided transport for five rural students who used wheelchairs (sub. DR53, p.4).

State and Territory Governments also argued that even if all school buses were accessible it would still be necessary to provide some alternative forms of transport for some individuals with disability. The New South Wales Government noted this issue in their submission to the Draft Report

Some children have severe disabilities that prevent them from travelling independently, irrespective of whether the bus is accessible. Other children have intellectual or behavioural disabilities that would prevent them travelling unsupervised with other children. It is likely therefore that a special transport scheme would still be necessary even if all dedicated school buses were accessible. (sub DR37, p.1)

Therefore, the costs associated with providing taxi transport for people with disability in areas that do not have an accessible bus service would not necessarily be negated by the introduction of an accessible bus service.

However, given the integral role played by school buses in the provision of public transport for the whole community in non-metropolitan areas the number of school students does not accurately represent the level of need. There is no accurate measure of other people with disability — other than school students — who would use the school bus network in rural areas if it were more accessible. Mrs Cannon described the difficulty in finding her mobility impaired son transport to attend a New South Wales Department of Education funded program in Parkes.

Our son has just left school last year and he's been funded to attend Kurrajong Enterprises in Parkes from 9 to 3 five days a week, that's an 80 km one-way trip for us and obviously we can't do that. We can't take him in and out, in and out and go back and get him each day. We have no way of getting him there. (Mrs Cannon, Dubbo Hearing Transcript)

Small aircraft

Small aircraft with fewer than 30 seats are excluded from 17 parts of the Transport Standards, as detailed in Table 8.3. The current exclusion from the Transport Standards does not cover other access issues such as signage and symbols.

There is currently a dearth of information on what is structurally possible for small aircraft in terms of whether and how these aircraft can be made accessible for individuals with mobility impairment. The current technical problems relating to accommodating individuals with mobility impairment include:

- restricted physical confines of the aircraft cabin, making it difficult for passengers to transfer from a mobility aid to a seat;
- insufficient luggage space for storing a mobility aid; and
- limited weight carrying capacity for some aircraft..

Table 8.3

EXCLUSIONS FROM THE TRANSPORT STANDARDS FOR SMALL AIRCRAFT

Transport Standards Part	Notes
3.3 Limited on-board manoeuvring	-
6.2 Boarding ramps	Specifies that a boarding ramp must comply with the relevant Australian Standard
6.3 Minimum allowable width (ramps)	-
6.4 Slope of external boarding ramps	Specifies the slope of boarding ramps, for both assisted and unassisted access
8.2 When boarding devices must be provided	-
8.3 Use of boarding devices	Specifies that the boarding device must be provided at all designated stops
8.5 Width and surface of boarding devices	-
8.6 Maximum load to be supported by boarding device	-
9.1 Minimum size for allocated space	Specifies the minimum allocated space or a passenger using mobility a aid
9.8 Allocated spaces in aircraft and coaches	Does not require aircraft and coaches to provide an allocated space if each passenger uses a fixed seat
11.3 Handrails on steps	-
11.4 Handrails above access paths	-
11.5 Compliance with Australian Standards (grabrails)	Specifies that grabrails must comply with the relevant Australian Standard
11.6 Grabrail to be provided where fares are to be paid	-
12.1 Doors on access paths	Requires that any doors along an access path not present a barrier to independent travel
12.6 Automatic or power-assisted doors	-
14.1 Stairs not to be sole means of access	-

Source: Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3), p. 50.

The lack of accessible small aircraft is problematic for individuals with mobility impairment that live in, or would like to travel to, remote areas of Australia and have no other means of travel. In the Darwin hearing for this review, incidences were cited of indigenous people with disability from remote communities that had not visited their home since they were small children because of the lack of accessible transport. (Attorney General's Department, 2006)

Airports that do not accept regular public transport services

Airports and aerodromes that are not licensed to accommodate regular public transport are excluded from 33 Parts of the Transport Standards, as detailed in Table 8.4.

Table 8.4

EXCLUSIONS FROM THE TRANSPORT STANDARDS FOR AIRPORTS THAT DO NOT ACCEPT REGULAR PUBLIC TRANSPORT SERVICES

Transport Standards Part	Notes
2.1 Unhindered passage (access paths)	-
2.2 Continuous accessibility	-
2.3 Path branching into two or more parallel tracks	-
2.4 Minimum unobstructed width (access paths)	-
2.5 Poles and obstacles, etc (access paths)	-
3.1 Circulation space for wheelchairs to turn in	-
4.1 Minimum width (passing areas)	-
4.2 Two way access paths and aerobridges	-
5.1 When resting points must be provided	-
6.1 Ramps on access paths	-
7.2 Minimum number of allocated spaces to be provided (waiting areas)	-
8.1 Boarding points and kerbs	-
8.8 Notification by passenger of need for boarding device	-
9.1 Minimum size of allocated space	-
10.1 Compliance with Australian Standard (surfaces)	Specifies the ground and floor surfaces on conveyances and infrastructure
11.1 Compliance with Australian Standard — premises and infrastructure (handrails)	Specifies that handrails in public transport infrastructure must comply with the relevant Australian Standard
11.2 Handrails to be provided on access paths	-
11.5 Compliance with Australian Standards (grabrails)	Specifies that grabrails must comply with the relevant Australian Standard
11.6 Grabrail to be provided where fares are to be paid	-
12.1 Doors on access paths	Requires that any doors along an access path not present a barrier to independent travel
12.2 Compliance with Australian Standards — premises and infrastructure (doors and doorways)	Specifies that doors and doorways in public transport infrastructure must comply with the relevant Australian Standard
12.3 Weight activated doors and sensors	
13.1 Compliance with Australia Standard — premises and infrastructure (lifts)	Specifies that lifts in public transport infrastructure must comply with the relevant Australian Standard
14.1 Stairs not to be sole means of access	-
14.2 Compliance with Australia Standards — premises and infrastructure (stairs)	Specifies that stairs in public transport infrastructure must comply with the relevant Australian Standard
15.1 Unisex accessible toilet — premises and infrastructure	Specifies that there must be at least one accessible unisex toilet in public transport infrastructure that comply with the relevant Australian Standard
15.2 Location of accessible toilets	Requires accessible toilets to be in the same location as other toilets
21.1 Compliance with Australian Standard — premises and infrastructure (controls)	Specifies that controls in public transport infrastructure must comply with the relevant Australian Standard
23.1 Seats (street furniture)	Specifies that street furniture must comply with the relevant Australian Standard
24.1 Gateways and checkouts	Specifies that gateways and checkouts must comply with

	the relevant Australian Standard
25.4 Circulation space in front of vending machine (payment of fares)	-
29.2 Distance around accessible tables (food and drink services)	-

Source: Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3), p. 51.

The Transport Standards do apply to aircraft that do not accept regular public transport services in relation to: symbols, signs, TGSIs, lighting, information and alarms, where these parts apply to all other airports.

These are generally small airports that do not have full-time staff and are mostly used by non-commercial or charter flights. As such it was argued in the RIS that these airports and aerodromes do not generate the volume of revenue necessary for capital improvements and there is little call for accessible services in these locations (Attorney-General's Department, 2006). It may also be argued that this infrastructure is unlikely to be used by passengers in conjunction with travelling on a public transport service and hence does not fall within the scope of the Transport Standards. The exclusions granted are in relation to physical access requirements in the Transport Standards. These exclusions are considered to be reasonable given that these small airports typically service small aircraft which are not accessible for people with mobility impairments, particularly those that use large mobility aids (which do not fit into the hold of small aircraft).

Community transport services for targeted groups of people

Community transport services are also excluded from the Transport Standards when they are providing services for a targeted group of people. There is no requirement, for example, that a community transport bus, which provides services for individuals with sight impairment be wheelchair accessible. This is a very artificial exclusion and appears to be counter to the function of community transport within society. This view is reflected in the New South Wales Government submission:

The Transport Standards do not require community transport services to be accessible unless they are providing services to the general public. Disability stakeholders have commented that this 'exemption' for community transport services is inconsistent with the aims of the Transport Standards. (sub. 90, p. 12)

While there are cases where this is appropriate (for example, a sporting team bus), the current definition implies that even if the 'target group' is defined by disability or likely to include a large number of people with disability such as older people, the transport does not need to be accessible. This is a puzzling outcome.

8.3 Temporary exemptions granted by the AHRC

The AHRC has the power to grant temporary exemptions from specific Parts of the DDA and the Transport Standards. In considering an application for exemption, the AHRC is required to take into account advice from the Accessible Public Transport Jurisdictional Committee (APTJC). APTJC is the prescribed body for this purpose and is comprised of representatives from the Australian Government and State and Territory transport or equivalent departments.

Temporary exemptions may be subject to conditions that are set by the AHRC and are limited to a term of not more than five years. Box 8.1 provides an example of the type of temporary exemptions granted by the AHRC to light plane operator AirNorth in 2003 and again in 2006 and the conditions that they are subject to. All exemptions granted by the AHRC can be reviewed by the Administrative Appeals Tribunal.

Box 8.1

AIRNORTH CASE STUDY

The AHRC granted Capiteq Limited, trading as AirNorth, the following temporary exemptions from the Transport Standards.

- Lack of access to aircraft seats for people requiring wheelchair access, where this is prevented by limited aisle width.
- Lack of access to aircraft or seats for passengers requiring lifting, where this cannot be performed in compliance with the requirements of applicable occupational health and safety laws due to space constraints of the particular aircraft.
- Requirements for notice of disability access requirements, where these requirements are reasonable in the circumstances.

The period for the current exemptions is two years. Under the terms of the exemptions, Capiteq Limited is required to:

- continue to provide the Greater Freedom Fare as detailed in its application where a person would not be able to travel without an assistant;
- report each three months during the exemption period to the AHRC on any instances where a passenger has been unable to travel or has been required to travel with an assistant because of restrictions permitted by this exemption at a periodicity set by the AHRC; and
- report each three months during the exemption period on any feasible technical solutions to address the difficulties in people with disability boarding and being seated safely, and in particular on consideration of solutions being trialled by other aviation operators in Australia .

Source: Human Rights and Equal Opportunity Commission, 2006.

Since the introduction of the Transport Standards in 2002 eight organisations have applied for a temporary exemption. With the exception of the Australasian Rail Association (ARA), all applications for exemption that have been made relate to regional and rural transport services. All bar one of these applications for exemption have been successful. The East Gippsland Transport Working Group, noted in their submission:

It is too easy for transport services in rural and remote areas to gain ‘exemption’ under the *Standards*. The reason for which exemption is granted, eg cost, lack of infrastructure, geographic factors and resources available are naturally experienced by rural communities (sub. 24, p. 9).

The following provides a discussion of the temporary exemptions granted by the AHRC to the ARA. For a comprehensive list of temporary exemption applications from the Transport Standards please refer to Appendix E.

Australasian Rail Association Exemption Application

The ARA application for a number of temporary exemptions was initially made in July 2005 and then again in a revised application in February 2006. This application represents the most detailed and complex request for temporary exemptions under the Transport Standards. The ARA argued in its application that some of the specifications of the Transport Standards for how access should be provided were either:

- not capable of being complied with in their terms in a rail environment, and thus would have to be interpreted by extensive and uncertain application of the unjustifiable hardship defence to determine what is required in practice; or
- failed to give sufficient direction on actions required.

On the basis of these arguments, the AHRC granted temporary exemptions of two to three years for 39 exemption clauses and deferred or declined an additional 64 exemption clauses. As a condition of those clauses to which a temporary exemption has been applied, the ARA is required to consult with the Australian Federation of Disability Organisations (AFDO) and report to the AHRC once every 12 months during the exemption period on a number of exemption clauses.

The AHRC declined to grant a number of the exemptions sought by the ARA on the basis that the ARA proposal did not constitute an exemption but was rather an amendment of the Transport Standards that was consistent with their existing effect (HREOC, 2007b). As was noted in the Sydney hearing, attempting to propose amendments to the Transport Standards via the AHRC was not appreciated by some review participants.

I'm deeply, deeply, deeply disappointed however as we all are I think with those of us who come from my perspective that is, with the actions of the Australian Rail Association in what seemed to me to be an attempt to rewrite the standard in their application for an exemption from the standard that has been conciliated and considered by the Commission. I think the Australian Rail Association overstepped the mark. (Douglas Herd, Sydney Hearing Transcript Friday 20 July 2007, p. 31)

8.4 Claims of unjustifiable hardship under the Transport Standards

In addition to the temporary exemptions that are granted to certain operators and providers of public transport, the Transport Standards also allow for cases where the costs associated with removing discrimination may be more than some operators and providers can bear. The rationale for this allowance is enshrined in Section 24 of the DDA, which says, in relation to the provision of goods, services and facilities:

- (1) It is unlawful for a person who, whether for payment or not, provides goods or services, or makes facilities available, to discriminate against another person on the ground of the other person's disability or a disability of any of that other person's associates;
- (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person; or
- (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person; or
- (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

(2) This section does not render it unlawful to discriminate against a person on the ground of the person's disability if the provision of the goods or services, or making facilities available, would impose unjustifiable hardship on the person who provides the goods or services or makes the facilities available (s.24).

Where the temporary exemptions are a pre-emptive tool that can be used by providers to postpone their compliance with the Transport Standards, the claim of unjustifiable hardship can only be used as a defence against non-compliance once a complaint is brought against an operator or provider. Once the complaint is made, the determination of whether the unjustifiable hardship defence is legitimate or not will be determined by the Federal Court or Federal Magistrates Court, though the AHRC can advise on the validity of a claim during conciliation. The Transport Standards set out a number of aspects of the issue that should be looked at when arguing the case for unjustifiable hardship, as shown in Box 8.2.

Box 8.2

CONSIDERATIONS FOR UNJUSTIFIABLE HARDSHIP

In determining whether compliance with a requirement of these [Transport] Standards would involve unjustifiable hardship, all relevant circumstances of the particular case are to be taken into account including the following

- (a) any additional capital, operating or other costs, or loss of revenue, that would be directly incurred by, or reasonably likely to result from, compliance with the relevant requirement of these Standards
- (b) any reductions in capital, operating or other costs, or increases in revenue, that would be directly achieved by, or reasonably likely to result from, compliance with a relevant requirement of these Standards
- (c) the extent to which the service concerned operates, or is required to operate, on a commercial or cost-recovery basis
- (d) the extent to which the service concerned is provided by or on behalf of a public authority for public purposes
- (e) the financial position of a person or organisation required to comply with these Standards
- (f) any effect that compliance with the relevant requirement of these Standards is reasonably likely to have on the financial viability of a person or organisation required to comply, or on the provision of the service, or feature of service, concerned
- (g) any exceptional operational, technical or geographic factors, including at a local or regional level, affecting a person or organisation's ability to comply with a relevant requirement of these Standards
- (h) financial, staffing, technical, information and other resources reasonably available to a person or organisation required to comply with these Standards, including any grants, tax concessions, subsidies or other external assistance provided or available
- (i) benefits reasonably likely to accrue from compliance with relevant requirements of these Standards, including benefits to people with disability, to other passengers or to other persons concerned, or detriment likely to result from non-compliance
- (j) detriment reasonably likely to be suffered by an operator, provider, passenger or other person or organisation concerned, including in relation to equality of amenity, availability, comfort, convenience, dignity, price and safety of services or effectiveness and efficiency of operation if compliance with relevant provisions of these Standards is required
- (k) if detriment under paragraph (j) involves loss of heritage values— the extent to which relevant heritage value or features of the conveyance, building or other item concerned are essential, and to what extent incidental, to the transport service provided
- (l) whether compliance with a requirement of these Standards may reasonably be achieved (including by means of equivalent access as provided for in sections 33.3 to 33.5) by less onerous means than those objected to by a person or organisation as imposing unjustifiable hardship
- (m) any evidence regarding efforts made in good faith by a person or organisation concerned to comply with the relevant requirements of these Standards
- (n) if a person or organisation concerned has given an action plan to the Commission under section 64 of the *Disability Discrimination Act 1992*— the terms of that action plan and any evidence regarding its implementation
- (o) the nature and results of any processes of consultation, including at local, regional, State, national, international, industry or other level, involving, or on behalf of, an operator concerned, any infrastructure providers as relevant, and people with disability, regarding means of achieving compliance with a relevant requirement of these Standards and including in relation to the factors listed in this section
- (p) if a person or organisation seeks a longer period to comply with these Standards, or a requirement of these Standards, than is permitted by the preceding sections on Adoption and Compliance, whether the additional time sought is reasonable, including by reference to the factors set out in paragraphs (a) to (o) above, and what undertakings the person or organisation concerned has made or is prepared to make in this respect.

Source: (Transport Standards, Part 33.7)

The Terms of Reference for this review require an assessment of the extent to which unjustifiable hardship is being claimed by public transport operators and providers, using it as an indicator of:

- how many operators and providers are likely to incur significant costs as a result of complying with the Transport Standards; and
- how well the unjustifiable hardship provision works as a mechanism for smaller operators to make a case for an exclusion on the basis of significant costs.

Claims of unjustifiable hardship are only formally made in the case where a complaint is made against an operator or provider. Many operators and providers commented to this review that they considered they had a reasonable case to claim unjustifiable hardship if a claim were made against them. They will not, however, have any certainty about the validity of this claim until it is assessed (in the event of a complaint). Operators and providers have the option of doing nothing, and placing their confidence in the validity of their claim of unjustifiable hardship, or seeking a temporary exemption from the AHRC (presumably actually complying is not an option given that unjustifiable hardship is being sought). A third, least desirable option is to cease operations, or adjust the services that your business offers to avoid obligations under the Transport Standards. As the Far North Queensland Tour Operators Associations noted in their submission:

...an operator needs to obtain an exemption from the Standards if they are to have any certainty as to whether they are required to comply with the Standards or not. However, it may be that the only grounds for exemption are based on cost implications (unjustifiable hardship). Given that the Human Rights and Equal Opportunity Commission has ruled on a number of occasions that unjustifiable hardship is not a valid ground for an exemption from the Standards, there is no way, in these circumstances, for operators to achieve the certainty they require (sub. 43, p. 20).

Some providers argue that allowing temporary exemptions on the basis of unjustifiable hardship would provide greater certainty around outcomes; effectively establishing a process of assessing and validating claims of unjustifiable hardship in the same way that exemptions are considered. While this is intuitively appealing, it would be necessary to change the DDA and the Transport Standards in order to empower the AHRC to grant temporary exemptions on the basis of unjustifiable hardship. The initial Regulatory Impact Statement for the Transport Standards noted that:

Legal advice has recently been received from the Commonwealth Chief General Counsel to the effect that HREOC does not have power under its existing statutory functions to certify that unjustifiable hardship or equivalent access applies to certain circumstances. An amendment to the *Disability Discrimination Act* would be required in order to implement a mechanism of that description. However, it is possible that a similar power could be conferred on the Minister and delegated to some other body (without defined statutory powers). It should be noted that this power would have to be a fairly limited power to certify the existence of unjustifiable hardship or equivalent access in respect of individual operators' compliance with particular parts of the draft standards. It would not be legally valid to exempt categories of persons from the draft standards as a whole. (Attorney-General's Department, 1999, p. 76)

Several of the submissions for this review note that the options put forward in the above paragraph have not subsequently been pursued, but that greater certainty over outcomes could be achieved if they were.

The above discussion highlights the lack of reliable data on the use of unjustifiable hardship claims since the introduction of the Transport Standards. While data on complaints provides some indication, the sample size is relatively small. It is likely this sample will increase as awareness of the Transport Standards increases, and once key milestones are reached. These data are also limited in that they do not capture potential claims (that is, cases where unjustifiable hardship would be claimed in the event of a complaint being made). Assessing the use of unjustifiable hardship is therefore reliant on complaints being made. Consultations with operators and providers for this review found a general lack of willingness to rely on a claim of unjustifiable hardship, given the inherent uncertainties involved with this approach. Operators and providers are preferring to seek temporary exemptions rather than use the unjustifiable hardship provision.

8.5 Use of equivalent access provisions

One of the ways in which the Transport Standards allow for flexibility for operators and providers is through allowing the use of equivalent access. As defined in the Transport Standards:

(1) Equivalent access is a process, often involving the provision of direct assistance, under which an operator or provider is permitted to vary the equipment or facilities that give access to a public transport service, so long as an equivalent standard of amenity, availability, comfort, convenience, dignity, price and safety is maintained.

(2) Equivalent access does not include a segregated or parallel service (Part 1.16).

For the purposes of compliance with the Transport Standards, operators and providers must consider the issues noted in Box 8.3. From the information collected in the hearings and in the submissions, it is clear that many operators and providers are making use of the equivalent access provisions. Since these provisions are not reported on, however, it is difficult to assess the extent to which they are being used. Examples of some types of equivalent access provided that were mentioned by stakeholders include:

- using a cherry-picker to help a person with a mobility impairment onto a train, because there was no station or platform infrastructure at the stop;
- having staff available at stations and stops to provide timetable information or assist with the purchase of tickets and maps;
- the deployment of manual, rather than hydraulic, ramps; and
- the provision of accessible taxis to train services, when the passenger would otherwise need to use a bus to get to, or instead of, the train.

Box 8.3

CONSIDERATIONS FOR EQUIVALENT ACCESS**33.3 Equivalent access**

- (1) Compliance with these Standards may be achieved by
- (a) applying relevant specifications in these Standards before the target dates; or
 - (b) using methods, equipment and facilities that provide alternative means of access to the public transport service concerned (but not using separate or parallel services) with equivalence of amenity, availability, comfort, convenience, dignity, price and safety.
- (2) This may include direct assistance over and above that required simply to overcome discrimination.

33.4 Consultation about proposals for equivalent access

The operator or provider of a public transport service must consult with passengers with disabilities who use the service, or with organisations representing people with disability, about any proposal for equivalent access.

33.5 Equivalent access without discrimination

Operators and providers must be able to demonstrate that equivalent access provides public transport without discrimination 'as far as possible'.

33.6 Direct assistance

- (1) Nothing in these Standards prevents operators or providers from offering assistance directly to passengers.
- (2) If these Standards have not been fully met, direct assistance may be a means of providing equivalent access.
- (3) In addition to compliance with other provisions of these Standards, direct assistance to passengers is required if
- (a) it is necessary to provide equivalent access to a service and
 - (b) direct access can reasonably be provided without unjustifiable hardship.

Source: (Transport Standards, Parts 33.3 to 33.6)

The extent to which the use of equivalent access provisions is compliant with the Transport Standards depends on the extent to which the equivalent standard of amenity, availability, comfort, convenience, dignity, price and safety is maintained, as stated in the Transport Standards. For providers, this can only be determined if a complaint is brought against them, when the provisions will be tested during the process of determining whether or not discrimination has occurred. As a result, the flexibility that the provisions give come at the expense of greater uncertainty over whether or not the equivalent access provisions are adequate. This exposes operators and providers to the same risks discussed in relation to the provision for unjustifiable hardship. As noted by the Australasian Rail Association:

There is therefore little incentive to employ alternatives without first undertaking the fairly onerous process of applying for an exemption in which the alternatives are identified (sub. 17. p. 18).

Queenslanders With Disability Network made a similar point, noting:

The lack of certainty over the compliance of equivalent access eliminates flexibility. Litigation is a constant fear for many large operators so that compliance with the letter of the Standard is their preferred outcome (sub. 27, p. 3).

In addition, for some modes of transport, equivalent access is the most efficient way of providing access for passengers with disabilities. It was noted in the hearings in Adelaide that people with a mobility impairment and bus drivers both preferred the manual ramps to the hydraulic ones, because the manual ramps were more reliable, and did not break down. Most train, tram and ferry services rely exclusively on the use of manual ramps. Given the use of these direct access alternatives, it is important to ensure that staff are appropriately trained in the use of these devices, as well as in relation to the needs of passengers with disabilities. As discussed in Part B of this report, the accessibility of transport to many passengers with disabilities depends on the knowledge and willingness of staff to assist them directly.

A related consideration is the impact of other regulations or standards on the use of equivalent access provisions. For example, in the Bendigo hearing, one of the participants discussed the ramp that facilitated access onto regional trains in Victoria. After an accident with a passenger who had walked across the ramp, the rail staff would only allow passengers who used a wheelchair or scooter to use the ramp. Passengers who were able to walk were not permitted to use the ramp. These passengers could also not be physically lifted onto the train carriage due to occupational health and safety considerations relating to the maximum weight that station staff were permitted to lift. As a result, passengers who used canes or frames or were unable to step up were unable to board regional trains.

Another example that was frequently noted was in relation to taxi drivers assisting mobility or vision impaired passengers out of a taxi and into an airport. Due to airport security regulations, taxi drivers cannot leave their vehicles unattended at the entrance to the departure terminal. At the same time, some passengers with disabilities are unable to make their way into the terminal and to their flight unassisted. Airlines are not obliged to have a member of staff assist these passengers to the check-in counter, although some airlines make this arrangement. In addition, occupational health and safety regulations limit the extent to which airline staff are able to lift passengers or their mobility aids onto the aircraft, as discussed in Part B of this report.

As with the provision for unjustifiable hardship, operators and providers of transport have requested more certainty around using the equivalent access provisions. The Australasian Rail Association, for example, applied for and received a temporary exemption that specified the equivalent access provisions that would be undertaken in order to demonstrate compliance with the Transport Standards (HREOC 2007b). Nevertheless, this is only a temporary exemption, which will expire in 2009. Several of the submissions for this review note that the options for greater certainty around outcomes that were put forward in the initial Regulatory Impact Statement for the Transport Standards have not subsequently been pursued.

8.6 External factors that impact on accessibility

In public hearings for this review, people with disability and disability organisations provided a broad range of information on the accessibility of public transport in Australia. These discussions highlighted the experience of people with disability in using public transport, but also emphasised the myriad of factors that affect how people with disability can use public transport. Many of these factors are outside the scope of the Transport Standards, though they do impact on the ability of the Transport Standards to remove discrimination. It is important to acknowledge these factors because the discussion highlights the many interrelated factors that determine accessibility, and how governments and public transport operators and providers need to consider accessibility in this broader context. These factors fall into two main categories:

- the operation of public transport services; and
- the surrounding built infrastructure.

The operation of public transport services

Issues related to the operation of public transport services that impact on accessibility include: the availability of public transport services (including scheduling and frequency), certainty over the responsibility for public transport infrastructure and the operation of public transport systems.

The availability of public transport services

The adequacy of public transport services with respect to their frequency, scheduling and routes varies widely, particularly when considering the difference between metropolitan and non-metropolitan Australia. The overall availability of public transport in rural and regional Australia is limited. This places a particular constraint on members of these communities who are unable to drive and therefore rely on public transport and/or help from friends and family to get around. As noted in the Bendigo Hearing, this can restrict an individual's ability to participate in their community's social and economic life.

... particularly in rural and regional Australia, or Victoria, we are really the poor people in relation to public transport. As I said to you, I have someone who wants to be at work for me at 8.30, and they live probably three kilometres from the city centre, and the first bus is not until 8.30 and they only run on the hour for five hours. (Robert Pascoe, Bendigo Hearing Transcript, p. 27)

The availability of public transport is an important issue, particularly for people in rural and regional Australia. The Transport Standards cannot dictate availability but rather set standards for the accessibility of existing services. The impact inadequate public transport has on those dependent upon it should be considered in the overall formulation of public transport and disability policy.

Responsibility for public transport infrastructure

Local councils reported difficulties related to not being clear about whether they were actually responsible for bus stop infrastructure or not (which is based on agreements between local councils, State and Territory governments and public transport providers). While this does impact on the implementation of the Transport Standards, it is not the role of the Transport Standards to determine responsibility in this regard.

Operational decision making for public transport systems

While the Transport Standards can set requirements for public transport, there needs to be an overall level of accessibility for people with disability when making decisions about how public transport systems operate. Stakeholders provided several examples of decisions made on legitimate grounds to address particular problems, or matters important to the efficiency of services, but that negatively impact on accessibility for people with disability.

An example noted by stakeholders at public hearings was in New South Wales, where the State Transit Authority of New South Wales introduced a system where some bus routes provide a prepay only bus service. Tickets for these prepay services are sold by ticketing agents across Sydney, many of which are small newsagents which are inaccessible. For individuals who use wheelchairs or similar mobility aids this has had the unintended consequence of making ticket purchasing more difficult.

An example of where a new policy to address a problem has led to reduced accessibility is security for taxis at airport terminals. To improve security at airports the Airports (Control of On-Airport Activities) Amendment Regulation 2002 (No. 1) makes it illegal for a taxi driver to leave their taxi unattended in a taxi zone on the landside of an airport if a traffic control device indicates that they must not. This rule makes it impossible for taxi drivers to ensure passengers with a disability make it safely inside the airport terminal. The problem this can cause for people with vision impairment was noted in the Adelaide hearing:

...if a taxi pulls up and he is not allowed to leave his vehicle, so unless there is a person - one of the taxi coordinators on the concourse, he has to basically leave a blind person there and - or grab another passenger to take you into the terminal. (Mr Tony Starkey, Royal Blind Society, Adelaide Hearing Transcript, p. 18)

Decisions about the placement of bus stops is an example of where greater awareness of accessibility in decision making would assist those parties who are responsible for upgrades to transport infrastructure as required in the Transport Standards. Several local councils reported their difficulties in upgrading bus stops to comply with the Transport Standards, particularly given the placement of bus stops is usually determined by another party (either the bus operator or the State or Territory government). Some local councils provided examples where they did not consider they could install an accessible stop because the placement of the stop was in an area where topographical or space constraints would make it impossible to make such improvements.

It is acknowledged that in some areas hilly terrain will lead to some bus stops probably never being accessible, but some examples provided to the review team showed a poor overall judgement in the placement of the bus stop for any passenger, such as Figure 8.1, where the bus stop is positioned it is not safe for any person to be standing. In these cases local councils and bodies that determine the placement of bus stops need to make a judgement about the overall appropriateness of the placement of bus stops, taking into account the safety of all passengers.

Figure 8.1

EXAMPLE OF A BUS STOP IN SOUTH AUSTRALIA

Source: sub.22, p. 4.

Surrounding built infrastructure

The accessibility of built infrastructure has a significant impact on the ability of people with disability to go to stations, stops or terminals to use public transport. In public hearings, many people with disability reported their difficulties in using footpaths or crossing roads, which are aspects of built infrastructure not within the scope of the Transport Standards.

Under the current arrangements, it is conceivable under the Transport Standards that public transport to particular destinations is required, but that people with disability have limited ability to move beyond the public transport services and infrastructure. As demonstrated in the Sydney Hearing this can have a considerable impact on the value of the journey or the likelihood of an individual being able to attempt one:

The other significant aspect about bus transport, however, is the lack of accessible infrastructure. In other words the footpath networks to get to the bus stops and be able to board and get on to the vehicle. (Mr Mark Relf, Association for Consultancy and Access Australia, Sydney Hearing Transcript, 19 July 2007, p. 27)

All the difficulties addressed above are largely the result of different authorities being responsible for accessibility to education, transport or access to premises and insufficient interaction between them, resulting in gaps and overlap in the overall experience of accessibility for people with disability within society. It also reflects the delayed process of developing Disability Standards for Access to Premises.⁶ Greater attention needs to be given to an integrated approach to accessibility in order to avoid these issues and increase the effectiveness of all measures taken to improve accessibility.

8.7 Conclusions

This chapter provides an analysis of the scope of the Transport Standards, and assesses the impact of various mechanisms within the Transport Standards that determine their scope (and their effectiveness).

The impact of the exclusions on the effectiveness of the Transport Standards has been mixed. There is a reasonable case for most exclusions, with the exception of community transport and dedicated school bus services.

On community transport, while there are some instances where this exclusion is warranted, the current definition does not allow for the fact that some community transport services are intended to service older people and people with disability.

On school bus services, the current exclusion has been seen to have a negative impact on accessibility in rural and regional areas. Given the similarity of the funding, business and infrastructure arrangements for general access bus services and dedicated school bus services the exclusion of dedicated school bus services seems to lack consistency. The separation of school bus services and route bus services is limiting the effectiveness of the Transport Standards to remove discrimination for people with disability.

For both of these exclusions, the rationale on equity grounds is not strong. However, removal of the exclusions will widen the scope of obligations under the Transport Standards, and thus will lead to compliance costs for providers of these services. Such costs could be mitigated through an incremental removal of the exclusions consistent with timeframes for capital upgrades. These issues are discussed in more detail in Chapter 11 of this report.

In relation to temporary exemptions, to date all applications for temporary exemptions have been for regional services with the exception of the application made by the ARA. The ARA exemption represents an unusual use of the temporary exemptions process, which is a likely reaction to the lack of certainty around the unjustifiable hardship and equivalent access provisions in the Transport Standards. Current arrangements do require reporting of the use of unjustifiable hardship claims, or equivalent access provisions, though anecdotal evidence suggests that providers find them less desirable than exemptions because they provide less certainty.

⁶ On 2 December 2008, draft Disability (Access to Premises – Buildings) Standards, together with a number of associated documents, were tabled in the House of Representatives. The draft Premises Standards will be referred to the House of Representatives Standing Committee on Legal and Constitutional Affairs and to ask the Committee to conduct consultations on the draft Premises Standards and to report to Parliament in the first half of 2009.

As with all legislation, the Transport Standards are limited in their scope to affect the level of accessibility experienced by the community. Other factors such as, the general availability of public transport, will impact on the effectiveness of the Transport Standards to positively influence public transport accessibility. Given the integrated nature of the issues surrounding accessibility, government policy and administration should take a more integrated approach in addressing it.

Chapter 9

Efficiency of implementation of the Transport Standards

Key findings

- Evidence from stakeholders suggests that compliance costs have been most acute for smaller providers and local government authorities.
- Public transport operators and providers have found the first five years of implementing the Transport Standards challenging. This experience has highlighted several gaps in the information and support processes for the Transport Standards.
- There is no authoritative source of information to advise providers on how to deal with ambiguity, conflicts with other regulations or uncertainty in their obligations.
- In this environment, providers are either making their own interpretations, or setting their own policies, where obligations are not clear, or seeking guidance from State and Territory governments.
- There is no means for providers to be certain that what they are doing to meet their obligations will be compliant. There is currently no appropriate mechanism for a determination to be made on these conflicts, without a case going to the Federal Court or Federal Magistrates Court.
- There is a relatively low level of understanding of rights by people with disability, which is a concern given the reliance on individual complaints in the compliance mechanisms around the Transport Standards.
- People with disability, particularly those with vision impairment, reported problems with the consistency of implementation of the Transport Standards. This was particularly problematic in relation to the use of TGSIs.

9.1 Introduction

The terms of reference for this review require an assessment of the efficiency of the Transport Standards, defined as ‘the costs of obtaining outcomes attributable to the Transport Standards’. Broadly defined, the efficiency of regulation relates to the ratio of required inputs to reported outputs and outcomes from the regulation (as identified in an assessment of effectiveness). Efficiency analysis requires an assessment of whether the current inputs required to comply with the regulation are appropriate, or could be reduced (while still achieving the desired outcomes). Such analysis is important for good regulatory practice, as it ensures that outcomes are not pursued without consideration of the inputs required. This analysis is similar to a standard cost–benefit analysis, which assesses whether there is a net benefit from the regulation (as was conducted in the RIS for the Transport Standards in 1999).

This report assesses the efficiency of the Transport Standards in two main areas:

- *the efficiency of implementation of the Transport Standards* — the costs involved for operators and providers in understanding the requirements in the Transport Standards and making the required changes to comply with the Transport Standards, as well as costs for people with disability in understanding their rights under the Transport Standards.
- *the efficiency of administration of the Transport Standards* — how administrative arrangements that underpin the Transport Standards (including compliance, reporting and consultative mechanisms) impact on the overall

efficiency of the Transport Standards. These issues are assessed in the following chapter.

For most public transport operators and providers implementing the requirements in the Transport Standards necessarily involves costs. The Australian Government Office of Best Practice Regulation defines compliance costs as the ‘direct additional costs to businesses of performing the various tasks associated with complying with government regulation’ (OBPR 2006, p. x). Compliance costs include costs associated with:

- *notification* — costs of reporting certain events;
- *education* — costs of keeping abreast of regulatory requirements;
- *permission* — costs of seeking permission to conduct an activity;
- *purchase cost* — costs of required materials or equipment;
- *record keeping* — costs of keeping records up to date;
- *enforcement* — costs of cooperating with audits or inspections;
- *publication and documentation* — costs of producing documents for third parties; and
- *legal* — costs of legal advice and/or legal representation in court. (OBPR 2006, p. 16)

In relation to the Transport Standards, much of the focus of compliance cost analysis to date has been on purchase costs. Purchase costs should be assessed as those costs over and above what would have been incurred through normal upgrades of conveyances and infrastructure. In this regard, purchase costs fall into two main categories:

- the costs of upgrading transport infrastructure or conveyances earlier than would otherwise have occurred (thus losing the value of the remaining economic life of the assets);
- the costs of upgrades or new purchases where the Transport Standards require changes that would not otherwise have been made (and thus additional costs). For instance, a train station may have been upgraded anyway, but at a lower cost than is the case when the Transport Standards requirements are implemented. Another good example of this is the higher costs of a new low-floor bus compared with a new standard bus.

Purchase costs represent only a relatively narrow set of costs of compliance. Operators and providers also incur costs involved with seeking information on their obligations or paying for legal or technical advice. There is also a cost involved with the risk of incorrect implementation of the Transport Standards, where obligations may be ambiguous. These costs all relate to the way that the Transport Standards specify requirements, and the appropriateness and consistency of requirements. Such costs will be higher where requirements are difficult to interpret or are inconsistent with other regulatory requirements. Where these costs are minimised, the overall efficiency of the Transport Standards will be improved.

Both purchase costs and process costs are discussed in further detail in the remaining sections of this chapter.

9.2 Previous estimates of compliance costs

The RIS for the proposed Transport Standards, completed in 1999, conducted a quantitative assessment of the costs and benefits of the Transport Standards. An element of this analysis was to consider the costs to public transport operators and providers of complying with the Transport Standards. The final cost estimates are provided in Table 9.1.

These cost estimates were made on the basis of full implementation of the Transport Standards over a 20 year timeframe. Since this costing estimate was developed, some important changes have been made which influence the costs incurred:

- the compliance timeline was extended to 30 years for trains and trams (for the final 10 per cent of conveyances);
- school buses were excluded from 23 provisions of the Transport Standards relating to physical access; and
- the rail industry received temporary exemptions from 39 provisions of the Transport Standards, removing the immediate requirement to comply.

These factors are likely to reduce compliance costs. Conversely, the estimate in the RIS did not take into account costs for the aviation industry. The inclusion of these costs would see a rise in the original estimate. The RIS also did not estimate costs to providers of advisory services or legal services.

Table 9.1

COSTS OF THE TRANSPORT STANDARDS ESTIMATED IN THE RIS

Mode of transport	Estimated cost (\$million)
Buses	
Upgrading Public Fleets	\$620.3
Upgrading Private Fleets	\$480.4
Infrastructure (interchanges)	\$25.6
Infrastructure (stops)	\$628.0
Dedicated school buses (prior to exclusions)	\$1265.6
Coaches	\$174.4
Loss in capacity	\$693.4
Ferries	
Incremental capital costs (Vic & NT only)	\$8.8
Infrastructure (excl Vic, WA)	\$46.9
Maintenance (NT only)	\$0.06
Staffing (NT, QLD and Vic only)	\$1.3 (min)
Taxis	
Accelerated capital/maintenance cost	\$51.4
Capital cost	\$33.9
Maintenance	\$31.1
Staffing	\$1.5
Infrastructure	\$10.7
Trains	
Retro-fitting costs (metro)	\$43.8
Retro-fitting costs (non metro)	\$43.5
Maintenance (all)	\$0
Additional staff (all)	\$14.7
Infrastructure (excl WA non metro)	\$767.3
Great Southern	\$4.2
Trams	
Retro-fitting costs (excluding W-class trams)	\$68.0
Infrastructure (all)	\$13.5
Total estimated costs	\$5 027.0
Total estimated costs incorporating schools bus exclusion	\$3 761.4

Source: Attorney-General's Department, 1999, Regulation Impact Statement on Draft Disability Standards for Accessible Public Transport, accessed 18 September 2007, <http://www.ag.gov.au>

9.3 Reported compliance costs since the introduction of the Transport Standards

It is not the role of this review to fully update the cost–benefit analysis conducted in the RIS. This review can, however, assess whether the previous estimates are still considered reasonable given the experience of the first five years of implementation of the Transport Standards.

There was a range of views provided to this review on compliance costs, primarily from public and private operators and providers, and local government associations. While a majority of stakeholders accept that meeting the objective of the DDA and the Transport Standards will incur costs, they raised specific concerns and issues in relation to:

- cases where costs were underestimated or not recognised in previous estimates;
- the distribution of costs; and
- future issues where compliance costs may increase.

As noted above, a major omission from the original cost estimate was costs to the aviation industry. Aviation stakeholders did not provide estimates to this review of compliance costs to date, though they did note costs associated with additional staffing and the purchase and maintenance of equipment, such as the ‘Eagle Lifter’ used by QANTAS. The Regional Airlines Association of Australia noted that, particularly for smaller airlines, there are costs of compliance with the Transport Standards:

While accepting the desirability of the Disability Discrimination Act 1992 and the related Disability Standards for Accessible Public Transport, there is no doubt that their introduction has created added difficulties and costs for our member airlines. The costs have ranged from relatively minor in the case of those operators limited to small typically 19 seat aircraft such as the Metro, which have been able to claim exemption from the requirements, to quite significant in the case of operators of larger aircraft. (sub. 35, p. 5)

These comments notwithstanding the comments received from the aviation industry were focused on the practicalities of complying with the Transport Standards (particularly in relation to consistency with other regulation) rather than on the scale of compliance costs.

Other industry stakeholders provided evidence of the impact of costs on smaller providers, which is not easily accounted for in aggregated estimates of compliance costs. The Far North Queensland Tour Operators Association in their submission provided some evidence of compliance costs incurred by their members to meet the Transport Standards. Costs were categorised as:

- *the economic cost of installation* — for coach operators these costs are incurred to retro-fit their coaches to allow for an allocated space in a coach for a person using a mobility aid (as well as lifts to get into the coach). While estimates for modification vary by the size of coach, they are in the range of \$25 000 to \$42 000 for 21 to 30 seat coaches made compliant;
- *the economic cost of maintenance* — maintenance costs (over and above normal costs) will be incurred for moving parts such as lifts and hydraulics. No estimates of maintenance costs were provided to this review; and

- *opportunity cost of seating loss* — the number of seats removed to allow for allocated spaces varies by the type of vehicle, though are up to eight seats on larger coaches. It is possible for temporary seating to be installed in place of the allocated spaces (though not in all cases).

Each of the above costs were estimated in the cost–benefit analysis of the RIS for the Transport Standards. Experience suggests, however, that the impact is greater for some smaller providers. The RIS for the Transport Standards estimated the average loss of capacity on private buses to be 10 per cent (on average). Evidence from tour operators suggests that this estimate is low, particularly in relation to smaller coaches, where the loss of 4 seats can lead to a loss of between 28 and 36 per cent of capacity (for 14 to 11 seat coaches) (sub. 43, p. 6).

The Bus and Coach Association noted that cost estimates have not taken account of the costs of operating low-floor buses on regional roads:

For regional and remote operations the standards have resulted in increased costs for maintenance and reduced longevity of low-floor accessible vehicles operating life. These vehicles are often operating on dirt roads, hilly terrain, frequent road culverts and floodways which take a heavy toll on the vehicles, often when there is little or no demand for such vehicles. (sub. 98, p. 3)

The area of most debate in relation to both the scale and distribution of costs is bus stop upgrades. Several local government associations, and individual councils noted that they were concerned about the financial burden being placed on councils to upgrade bus stops. As the Local Government Association of South Australia reported:

Councils have advised the cost of upgrading bus shelters on PTD routes are in the order of \$3,000 per shelter. By way of example a medium sized metropolitan Council with 435 PTD bus stops will need \$1.305 million to meet current interpretations of the requirements of the Act (based on one available space for a person with disabilities in the shelter) Respondent Councils have indicated a compliance range, by December 2007 of between 20% to 30%. (sub. 46, p. 3)

Box 9.1 provides information submitted by a Western Australian Local Government Association. This evidence highlights the pressure placed on local councils to fund upgrades of bus stops.

Box 9.1

REPORTED COMPLIANCE COSTS FOR UPGRADES OF BUS STOPS IN PERTH

It is estimated that there are approximately 13,300 bus stops in metropolitan Perth. Based on a minimum compliance cost of \$2,500 for a basic stop 2.3m wide x 6.2m long, this equates to about \$33.25 million. The installation and supply of a new shelter costs approximately \$15,000. The modification/installation of 2000 bus shelters is estimated at around \$30.0 million. The total minimum cost is estimated at \$60 million.

One medium sized metropolitan Council has around 650 locations that require treatment. The total cost, at current valuations, is \$1.6 million. Another larger metropolitan Council has indicated that they are currently responsible for approximately 570 bus stops, with 14 different bus shelter designs including;

- 60 Style 1 shelters: predominantly located on 3 major highways;
- 100 fibro and asbestos shelters: in 5 different styles distributed throughout the City;
- 100 concrete shelters: in 5 different styles distributed throughout the City; and
- 300 stops with just a post or a post and a seat.

The installation and supply of a new shelter costs approximately \$15,000. The City will need to supplement the \$60,000 revenue from bus stop advertising with \$140,000 annually over five years, 2006-2011. This will result in an annual five year budget of \$225,000 per year, which would only enable the installation of 15 bus shelters per annum.

Source: sub 30 p. 9.

Bus stop upgrades present particular compliance costs for local councils given:

- in several jurisdictions there was no existing program funding regular upgrades of bus stop infrastructure; and
- many bus stops in rural and regional areas consist of little more than a post at the kerb, meaning that making them accessible involves the development of infrastructure where there was effectively none before (rather than upgrading existing infrastructure).

These factors suggest that the actual cost of upgrading bus stops is likely to be higher than the previous estimate in the RIS. These costs are being met by a combination of local councils, bus operators and State and Territory governments.

While this review focused primarily on the requirements in the Transport Standards for the first five years, stakeholders also commented on their concerns about future compliance costs. State and Territory governments noted that the final proportion of infrastructure upgrades, required between 2017 and 2022 is likely to be the most costly, and the least beneficial. This is due to authorities at the early stages of implementation choosing those stations that had the highest patronage, and were relatively straightforward technically. Some stakeholders further questioned the reasoning behind making all stations accessible, particularly in metropolitan areas where:

If a number of train stations are located close together, the better approach and most cost effective solution to improve the accessibility for people with disabilities would be to make selected station(s) fully accessible rather than spread the limited resources over all the stations.
(sub. 40 p. 5)

A key issue for future reviews will be to consider the extent to which these concerns are borne out by experience, and whether such instances may be the subject of unjustifiable hardship claims.

The Victorian government did report current inconsistencies in the compliance timetable for trams which is out of step with normal replacement cycles:

There is a significant mis-match between the milestones for trains and trams (30 years) and related infrastructure (20 years) which may prove unworkable, particularly for tram services. The milestones require a heavily weighted replacement rate for trains and trams, by providing 15 years to replace 90% of vehicles and another 15 years to replace the last 10% of vehicles. This does not fit comfortably with vehicle replacement programs or cycles. While this is not a significant issue for trains in Victoria (which are already virtually fully compliant), in the case of trams, older rolling stock cannot be retro-fitted. A more even roll out of replacement vehicles across the 30 years could be considered, whilst achieving the same final result of full compliance by 2032. This could achieve better integrated outcomes between vehicles and infrastructure, provided that it is progressed in consultation with people with disabilities. (sub. 71, p. 6)

This review would support a reconsideration of the compliance milestones to address this problem.

9.4 Processes for informing providers on their Transport Standards obligations

For a public transport operator or provider to implement the requirements in the Transport Standards they need to:

- identify Parts of the Transport Standards that relate to the mode of transport and/or type of premises or infrastructure for which they are responsible (for instance, for local councils this may be bus stops, for a bus company it will be the buses themselves);
- collate all relevant Parts into a total picture of requirements with which they need to comply (including relevant Australian Standards);
- consider the particular characteristics of their conveyance, premises or infrastructure, and how they can be modified to meet the requirements in the Transport Standards (or for conveyances, how new stock can be introduced); and
- plan a timetable for upgrading conveyances, premises or infrastructure, where necessary, in line with the compliance timetable in the Transport Standards.

In doing this, providers are able to refer to the Transport Standards themselves, the Transport Standards Guidelines and relevant Australian Standards. Since the introduction of the Transport Standards, some State and Territory governments have also developed information guides for public transport providers, for example:

- the New South Wales Ministry of Transport developed a guide for bus operators on their obligations under the Transport Standards;
- the Queensland Department of Transport has developed an information booklet which is published on its website, entitled *Important Information for public transport operators and providers of infrastructure and premises – for compliance with the Commonwealth Disability Standards for Accessible Public Transport 2002* (sub. 50, p. 7); and
- the Western Australian Public Transport Authority released a *Public Transport Bus Stop Layout Policy* in 2003 which sets out designs and specifications of bus stops in Western Australia.

The AHRC has also issued some guidance on interpretation of the Transport Standards (for example, the guidance note written by Disability Commissioner Graeme Innes in relation to bus stops, which is available on the AHRC website).

These information sources are all relevant and useful for providers to a degree. Feedback from providers in this review, however, suggests that there is a gap in information at the mode specific level, and a lack of guidance on how different Parts of the Transport Standards fit together (for any particular conveyance, premises or infrastructure) to result in overall compliance. In summary, the problems relate to:

- understanding the practical requirements in the Transport Standards and how they relate to each other (for example, the components of a compliant bus stop); and
- being confident that what they implement is compliant.

Information for providers on requirements and best practice

A difficulty for providers in implementing the Transport Standards is that the requirements are structured around components of a public transport system rather than by mode of transport. Where requirements are prescribed across all modes of transport, what the Queensland Department of Transport describes as a ‘one-size-fits-all’ approach (sub. 50. p. 12), difficulties in implementation arise.

Public transport providers and local councils consistently reported to this review their difficulties in sourcing definitive advice on how to implement the Transport Standards. While the objective of the Transport Standards is to clarify the obligations of providers under the DDA, there remains a lack of practical guidance on implementation, particularly for small providers and local councils. A good illustration of this point is where a local council or transport provider is required to install a new accessible bus stop. There are up to 16 Parts of the Transport Standards that can apply to a bus stop (some such as lighting apply only where the infrastructure is available for all passengers). Many local councils expressed a desire for a guide on how these Parts fit together to make a compliant accessible bus stop.

It is not unreasonable for the construction or upgrading of new infrastructure to require review and understanding of technical requirements. The Transport Standards themselves (and their Guidelines), however, are not able to address every technical issue for each mode of transport or type of infrastructure. This means that there are gaps, ambiguities or impracticalities in some cases. In these instances, providers are interpreting the Transport Standards in a variety of ways. At several hearings for this review, people with disability complained about new infrastructure or upgrades, which they believe do not meet the requirements in the Transport Standards, even though this was the intention of the responsible provider or local council. These instances point to a lack of understanding of requirements, due to a gap in information and advice for providers.

Where there is uncertainty over implementation, matters are often dealt with between local councils, providers and State and Territory governments, but with no party being entirely certain about the correct outcome. The City of Onkaparinga in South Australia made the following comment, which is a good illustration of these difficulties:

Confusion has arisen over what constitutes compliance and precisely what infrastructure is to be provided at bus stops. We have previously been provided (by the State Government) with a design for a bus pad they consider DDA compliant and suitable for use by State Government provided bus services ... More recent (verbal) advice received from the State Government is that they consider any hard, flat surface to be DDA compliant. This included dirt or lawn; however they did not indicate how Tactile Ground Indicators would be applied to these surfaces. This advice was taken to be particularly relevant at stops they considered to be temporary along routes (determined by them) which were undergoing an unspecified trial period. (sub. 22, p. 2)

The Queensland Department of Transport reported that, in the five years since the introduction of the Transport Standards, they have received many queries from public transport providers and local councils about their obligations under the Transport Standards, and how to meet these obligations. The lack of an advisory body in relation to the requirements in the Transport Standards has meant that State and Territory governments have sought to fill this advisory role:

There is also a general lack of awareness within the Queensland transport industry with regard to who the appropriate contact for requests for information or advice about the Transport Standards actually is. There is an absence of a comprehensive or centralised collection of information about the Transport Standards designed specifically for members of the transport industry. As a result, Queensland Transport, as a state transport authority has found itself taking on this role by default. (sub. 50, p. 16)

While it is not entirely inappropriate for State and Territory governments to be providing assistance to providers, they are also making their own interpretations, which limit the consistency of accessibility between jurisdictions. The Australian Local Government Association also noted the lack of appropriate information for providers:

Local government considers that the administrators of the legislation have to be more proactive in advising service providers of the requirements and in providing practical support for implementation. (sub. 28, p. 3)

The Western Australia Local Government Association, also recognised the difficulties that local councils have in understanding their requirements. They provided a number of suggestions for improving information to local councils, including the provision of an online resource for councils providing information on bus stop design, and an audit checklist for bus stop compliance (sub. 30, p. 12).

A related issue is the lack of mechanisms to share best practice solutions to particular requirements in the Transport Standards. Many people with disability, reported to this review their experiences using public transport in other States and Territories, and their desire that particular good practice could be adopted in their own State or Territory. While State and Territory governments have commented that they believe APTJC is an effective forum for sharing of ideas, there are numerous examples where learning is not being applied.

A particularly good illustration of this point is the use of ramps on regional trains in Victoria, where they have prohibited ambulatory passengers from using the ramps that are used by passengers in wheelchairs. This policy is a response to an accident that occurred when a passenger stepped onto the weaker hinge part of the ramp and fell (Raelene Dennis, Bendigo Hearing Transcript, p. 14). While the provider is currently researching options, there are clearly other types of ramps being used in other States and Territories, without this problem. It is appreciated that there are regional differences that need to be considered, however, the effectiveness of the Transport Standards can be improved through a more proactive approach to collecting and sharing information on best practice.

Recognising compliance with the Transport Standards

Implementing the requirements in the Transport Standards requires a degree of interpretation and practical application to particular settings. In hearings and submissions for this review, public transport providers and State and Territory governments reported many practical challenges when implementing the Transport Standards. With no central information source on accessibility options, providers are moving forward based on their own interpretations and the advice of accessibility consultants, and the disability community (in some instances). In doing this, however, providers are assuming the risk that their interpretation is correct.

The DDA, and thus the Transport Standards, are complaints-based legislation. Compliance is determined on a case-by-case basis in response to a complaint made by an aggrieved person. There is no means to give providers certainty that their planned investment complies with the Transport Standards prior to committing to the investment. Local councils in particular have found this risk unnerving to the extent that they are ‘second guessing’ and delaying meeting their obligations (primarily in relation to bus stop infrastructure). These difficulties are exacerbated for smaller providers or councils who do not have the resources to fund expert advisors or consultants to address particular issues.

The lack of any form of certification or approval process for compliance was raised both by the Queensland Department of Transport (sub. 50, p. 12), and Victorian Department of Infrastructure, who noted that:

The lack of sign-off or certification is problematic in the transport industry given the requirement for long lead times and large financial commitments. Designers, specifiers, manufacturers and operators all seek clarification and certainty of compliance throughout all processes, and certainly before delivery of a finished product, which may have been more than five years in development. (sub. 70, p. 9).

They go on to recommend ‘some form of referral and determination process in relation to the standards, similar to Building Referees panels in building permit processes’ (sub. 70, p. 9).

These issues are also relevant to potential claims of unjustifiable hardship. A claim of unjustifiable hardship is assessed by the Federal court during the course of a case between a provider and an aggrieved person. If a provider believes that they have a legitimate claim of unjustifiable hardship, they can accept the risk that their claim will stand up in court (if a complaint is made against them). In practice, there is a considerable degree of uncertainty around whether unjustifiable hardship can be claimed or not, as is illustrated in the following instance:

One member Council, a small remote Shire in the State's North West, indicated that the complaint driven nature of the Disability Discrimination Act in driving implementation of the Standards, has not facilitated compliance. This Council subsidises the local bus service as a community service as provision of a bus service is economically unviable. A local person with a disability requested that the bus service provide disabled access. The service utilised older buses. It was decided that the cost to retrofit existing buses would cause undue hardship to the contractor (in addition to the contractor being exempt), and would potentially make the community service unviable. This was unacceptable to the person with a disability. Legal advice from the person with a disability is that as of December 2007 the exemption claimed does not apply, contrary to Council legal advice. (sub. 30, p. 8)

The current approach creates a very litigious environment around the implementation of the Transport Standards, where ambiguities and areas of confusion can only be conclusively dealt with in the Federal court.

9.5 Implementation of the compliance timetable

The Transport Standards apply to all new public transport conveyances, premises and infrastructure introduced since October 2002, and retrospectively to existing conveyances, premises and infrastructure to the milestones set out in the compliance timetable (Part 33).

The compliance timetable sets milestones at 2007, 2012, 2017, 2022 and 2032. For several Parts of the Transport Standards the compliance milestones are expressed in percentage terms, for example, 25 per cent of services for buses at 31 December 2007 (Table 1.1 provides a summary of the milestones in the compliance timetable).

The timetable is intended to reflect the normal depreciation and replacement cycles of public transport conveyances, and normal cycles of upgrades for infrastructure. These timeframes should therefore reduce the costs to providers by limiting the instances where providers are forced to replace stock that still has an 'economic life' (that is, conveyances or infrastructure which could still continue to be used). The Transport Standards also include provisions for direct assistance and equivalent access to limit the need for providers to incur significant costs from upgrading stock.

There is a high degree of confusion amongst stakeholders about how the timetable should be interpreted and applied, which is reflected in comments made in public hearings and submissions to this review. The compliance timetable specifies that percentage targets for conveyances relate to 'each type of service' with the exception of bus stop requirements where it refers to '25% of bus stops' (for 31 December 2007). Data presented in Part B of this report show that most jurisdictions are reporting a proportion of fleets as being accessible, rather than services. There is general confusion about what data a provider would need to report on if they were requested to prove their compliance (such as when a complaint is made against them). The Queensland Department of Transport articulates this confusion well:

The HREOC website advises that: 'the 25% target deals with services rather than with fleet percentages, so that potentially an operator with less than 25% fleet accessible could still meet the 25% service accessibility targets by making the obvious decision to use the newer and better accessible vehicles more intensively than the older and less consumer friendly inaccessible vehicles in the fleet'.

Whilst this advice appears to make sense to transport operators for their conveyances, it raises two subsequent concerns:

- It is not legally enforceable, as it is simply 'advice' not legislation, and
- The definition of percentage of compliance as it pertains to infrastructure and premises still remains unclear. (sub. 50, p. 9)

This is a further example where reliable information would greatly assist providers in having certainty about their compliance. Currently, while the AHRC can provide some advice, providers are acutely aware that until there are some legal precedents, there is little certainty over what they need to do to meet the compliance timetable.

9.6 Compatibility with other regulatory requirements

The Transport Standards Guidelines (Division 1.9) state that the Transport Standards operate *in conjunction* with other laws, regulations and codes that apply to public transport. This broad statement does not, however, provide guidance on how to resolve cases where the Transport Standards are in conflict with other regulatory requirements. Public transport operators and providers in their submissions to this review raised concerns over perceived regulatory conflicts, and the lack of guidance on how to resolve these conflicts.

Occupational Health and Safety legislation

Occupational Health and Safety (OHS) legislation aims to secure and promote the health, safety and welfare of people at work and protect people at a place of work against risks to health and safety. OHS legislation is mandated at both the Commonwealth and the State and Territory level. In general terms, OHS legislation outlines the obligations of employers and employees to minimise the risk of workplace injury and disease. While legislation does differ by jurisdiction, all OHS legislation includes manual handling provisions that cover activities that require the use of force such as lifting, lowering, pushing and pulling. There are no limits on what men and women can lift in recognition of individual capacity, however, the National Code of Practice for Manual Handling (Part 4.23 (d), p.35) notes that 'generally, no person should be required to lift, lower or carry loads above 55 kg, unless mechanical assistance or team lifting arrangements are provided to lower the risk of injury'.

Public transport operators across several transport modes raised areas of perceived conflict between OHS legislation and the Transport Standards in their submissions. Conversely, people with disability expressed concern about what they consider is an attempt by airlines to use OHS legislation as a justification for not complying fully with the Transport Standards.

OHS regulations and the Transport Standards come together when direct assistance is provided by staff as a means of providing accessibility for people with disability. Operators of bus and train services described the following situations where they consider there is an unacceptable risk to employee safety associated with providing direct assistance to people with a mobility impairment using boarding ramps:

- where the boarding ramp has a one in four slope. The Transport Standards (Part 6.4) prescribe the maximum steepness of external boarding ramps for direct assistance as a one in four slope which operators consider is too steep. Ramps could be provided by operators that were less steep to mitigate this risk to their staff however operators note that longer ramps are not always practicable given the infrastructure at bus stops or train platforms; and

- where the passengers' mobility aid is 'unsuitable' for public transport use due to excessive size or weight which may break the boarding ramp.

The Bus Industry Confederation notes that:

these issues are an unexpected outcome of the standards introduction and highlight the situation that bus and coach operators and drivers have been out in. The complaints driven nature of the HREOC process provides little scope to refuse access at the threat of a complaint. (sub. 87, p. 4)

Airlines also perceive conflicts between the manual handling provisions of OHS legislation and providing access under the Transport Standards. They are concerned about the requirement in the Transport Standards for transport providers to carry mobility aids (regardless of normal luggage allowance limits) requiring their baggage staff to lift very heavy wheelchairs and scooters. The weight of mobility aids is increasing with a typical weight reported as between 100 and 120 kilograms, with some weighing up to 200 kilograms (sub. 35, p. 4). When the weight of a mobility aid exceeds around 64 kilograms, airlines report they can no longer safely be lifted manually and mechanical lifting devices are required. However, as many larger electric mobility aids need to be 'tipped' to their side to fit into the entrance of the luggage hold, safe handling remains difficult even with lifting devices (sub. 35, p. 4). As such, QANTAS (sub. 48, p. 3) considers that there is no suitable mechanical device for lifting fragile electric wheelchairs.

An additional concern of airlines is the need for staff to assist in transferring people with a mobility impairment between their own wheelchairs and airline or airport wheelchairs and transferring passengers between the wheelchair and the aircraft seat. QANTAS uses a mechanical device called an 'Eagle Lifter' to mitigate this risk.

To deal with conflicts between OHS legislation and the Transport Standards, some public transport operators have sought to protect their employees' safety by developing internal policies and guidelines where they consider there is no mechanical solution. For example:

- the Access for All Alliance (sub. 7, p. 2) noted that Queensland Rail has developed guidelines that allow rail staff to assess whether providing direct assistance using a boarding ramp would pose an OHS risk and the passenger may then be refused carriage and provided with an alternative form of transport one time only;
- QANTAS (sub. 48, p. 3) has limited the size dimensions of electric wheelchairs that may be carried on narrow-bodied aircraft to address OHS concerns; and
- Virgin Blue requires passengers that weigh more than 130 kilograms to provide an assistance person at both ends of the journey to help airline staff with transferring the passenger from a personal wheelchair to an airline/airport wheelchair to seat and vice versa.

These policies, although protecting employees, have the effect of reducing the level of assistance provided to people with a mobility impairment, which in turn reduces accessibility. As the Southern Sydney Regional Organisation of Councils Access Forum (sub. 56, p. 13) notes 'Occupational Health and Safety legislation impacts on the ability of transport providers to render 'hands on' assistance to passengers where independent access is not possible'.

Other operators, particularly bus and train operators, report that they have upheld the Transport Standards at the expense of employee safety and industrial injuries have been sustained with the industry bearing the cost of the increased liabilities under OHS legislation (sub. 20, p. 3).

Case law in this area is unclear. Virgin Blue provides two examples of cases where there has been a conflict between the DDA and OHS legislation – one case found that OHS may need to override the DDA, whereas the decision in the other case found that state laws cannot be used to permit conduct which would be in breach of the Commonwealth DDA. Public transport operators and consumers are seeking clarification within the Transport Standards on operators' responsibilities in light of possible conflicts with OHS legislation.

Australian Design Rules legislation

The Australian Design Rules (ADRs) are Commonwealth legislation that regulate the design of motor vehicles, for both private and public transport use. Specifically, ADRs set requirements for vehicle safety, anti-theft and emissions. ADRs are relevant in the context of the Transport Standards in how they apply to buses, coaches and taxis. There are four ADRs that relate to buses specifically; ADR 58, ADR 59, ADR 66 and ADR 68. The Transport Standards Guidelines (Division 1.9) specifically note that buses must comply with ADR 58 as well as the Transport Standards, though they do not specify what to do if there is a conflict.

This review has received several comments in submissions from bus industry stakeholders about the suitability and safety of travel in mobility aids on buses, specifically how in relation to *ADR 68 – Occupant Protection in Buses*. ADR 68 specifies requirements for seatbelts, strength of seats and seat anchorages on medium to large buses. The Transport Standards (Part 9) prescribe that either one or two allocated spaces must be provided for wheelchairs or other mobility aids on each bus (depending on the size of the bus). These allocated spaces are for passengers to travel in their wheelchair or other mobility aid, and are additional to fixed seating. Coaches do not have to provide allocated spaces if passengers travel in fixed seating.

The Bus Industry Confederation (sub. 87, p. 3) and the Bus and Coach Association of New South Wales (sub. 73, p. 3) consider that wheelchairs and other mobility devices do not provide equivalent seat strength or anchorage stability as prescribed for fixed seating in ADR 68. As such, they consider that passengers being carried on a bus in a mobility device are receiving a lower standard of safety, which may increase their risk of legal liability in the event of an accident. Further, as mobility aids do not provide equivalent anchorage to fixed seating, the safety of other passengers may also be at risk in the case of an accident or sudden braking and swerving.

Currently there are no safety standards which specifically test whether a mobility aid is safe for a passenger to travel in, in a moving vehicle. Further, there are no specific safety requirements in an ADR or an Australia Standard that specify how a mobility aid (or passenger in a mobility aid) should be restrained in a conveyance. The Bus Industry Confederation notes that 'the effective restraint of mobility devices is a major concern to the industry' (sub. 87, p. 2). The Victorian Department of Infrastructure suggests that 'the need for restraints for wheelchairs and scooters on buses may need review' (sub. 71, p. 10).

Civil Aviation Safety Authority regulations

Airline and airport operators and providers are required to comply with the various aviation safety regulations and standards set out in the *Civil Aviation Act 1988*, *Civil Aviation Regulations 1988*, *Civil Aviation Safety Regulations 1998* and the *Civil Aviation Orders* (together, CASA regulations).

QANTAS and Virgin Blue raised a number of areas where they considered that complying with CASA regulations may require them to breach the Transport Standards or the DDA more broadly. As Virgin Blue note in their submission:

employers such as Virgin Blue can be faced with an entirely unsatisfactory proposition: either compromise your position on safety or expose yourself to liability for breach of discrimination laws. Airport operators expressed that there were potential conflicts for airports also and are seeking clarification about how these conflicts would be resolved legally. (sub. 83, p.1)

Virgin Blue has introduced Independent Travel Criteria for passengers in an effort to meet their interpretation of obligations under CASA regulations. Virgin Blue has implemented Independent Travel Criteria in response to concerns they have about specific CASA regulations regarding:

- the use of seat-belts. CASA regulations prescribe that seat belts must be worn by all crew members and passengers at certain times including take-off and landing, during an instrument approach, when the aircraft is flying less than 100 feet above ground and at all times during turbulent conditions. Virgin Blue is concerned that in an emergency situation, should oxygen masks or life jackets be required at a time that staff and passengers are required to wear seatbelts as prescribed in the CASA regulations, it would be unsafe for airline staff to take off their seatbelts to assist passengers with disabilities. To meet their obligations under CASA regulations, Virgin Blue requires passengers to be able to access and fasten oxygen masks, lifejackets and seat belts without assistance or travel with a carer; and
- safety briefings. CASA regulations require operators to provide oral briefings before take-off on safety procedures, and in the case of people with disability operators must provide individual briefings appropriate to the needs of the passenger on procedures in the event of an emergency. To meet their obligations under CASA regulations for briefings, Virgin Blue requires that passengers “understand and respond to cabin crew directions, including directions about emergency procedures” or travel with a carer (sub. 83, p. 5-7).

QANTAS (sub. 48, pp. 4-7) raises two different issues that they consider present a conflict between the Transport Standards and CASA regulations:

- the carriage of service animals in the aircraft cabin. The Transport Standards (Part 28.3) require airlines to allow service animals to travel with the passenger at all times. CASA regulations however, state that a carrier may not carry any animal, other than a dog for the vision or hearing impaired without permission from CASA and that carrying an animal is prohibited if carrying the animal is likely to affect the safety of the aircraft. Even if CASA approval is given to carry a service animal other than a dog for the vision or hearing impaired, the airline may still refuse to allow a service animal in the cabin if it considers that it is not adequately trained to travel without affecting safety; and

- exit row seating allocations. CASA regulations require that ‘handicapped persons’ should not be seated where they may in any way obstruct or hinder access to an emergency exit for other passengers. If a passenger with a disability cannot lift out the emergency doors in the case of an emergency with the same efficiency as an able-bodied passenger then QANTAS will not allow them to sit in an exit row. QANTAS considers that where people with disability seek to be seated in exit rows to accommodate their disability or allow easy access, compliance with the CASA regulations may breach the DDA.

In these examples, the Transport Standards have not assisted airlines to understand their obligations under the DDA. In order to address conflicts between civil aviation regulation and Commonwealth discrimination laws, the *Civil Aviation Amendment Act 2005* was passed in March 2005 allowing the Governor-General to make regulations that may be inconsistent with current Commonwealth anti-discrimination laws. This amendment also introduced a note into section 47 (2) of the DDA that allows regulations made under the *Civil Aviation Act 1988* to be inconsistent with the DDA ‘if the inconsistency is necessary for the safety of air navigation’. Airlines do not consider that this amendment has been fully effective in resolving conflicts as:

- it only allows for the creation of ‘inconsistencies’, rather than expressly excluding airline conduct in accordance with safety requirements from the DDA;
- it only deals with inconsistencies that are necessary for ‘the safety of air navigation’ which if interpreted narrowly, does not necessarily cover the safety of passengers and staff in areas outside of actual navigation;
- it does not provide detail on what the inconsistencies are; and
- it does not explain how inconsistencies will be resolved.

Despite having different interpretations of their obligations under CASA regulations and the conflicts that occur with the Transport Standards, the two largest commercial airlines, QANTAS and Virgin Blue both consider that the *Civil Aviation Amendment Act 2005* still leaves them open to complaints under the DDA and they are both seeking additional amendments to the DDA to exempt activities undertaken to meet safety obligations.

9.7 Supporting providers in operating under the Transport Standards

The above discussion has focused primarily on processes for public transport providers understanding their obligations in the Transport Standards. A further issue is how providers can best operate in the new environment brought about by the Transport Standards. There are two issues in this regard — the size of mobility aids and assistance animals.

Managing the wide variation in the size of mobility aids used by some people with a mobility impairment was raised at every public hearing for this review. There were many reported cases where ramps were broken, or where scooters or electronic wheelchairs had become stuck getting into a bus, taxi or train. These problems can occur when the mobility aid is larger than the dimensions prescribed in the Transport Standards (in relation to the access path, manoeuvring area and allocated space on the conveyance). Ramps can be damaged when the total weight of the mobility aid and person is greater than 300 kilograms.

By operating conveyances that are within these limits, operators and providers of public transport are meeting their obligations under the Transport Standards. This is an example, however, of where operating within these limits presents some problems. Providers are currently at an information disadvantage when a person using a mobility aid wishes to board a conveyance. The transport staff member, such as the bus driver, may be concerned about whether the mobility aid will fit, but at that point in time they have no way of determining the weight or dimensions of the device (other than to ask the person using the aid). Providers reported that staff were reluctant to refuse access to passengers when they had been waiting and were expecting to be able to travel.

This issue is problematic for people using mobility aids also, who currently (without a detailed study of the Transport Standards) do not have sufficient information at the time of purchasing a scooter or wheelchair to ensure their aid is within prescribed dimensions.

In both cases the Transport Standards set limits, public transport staff (often bus drivers, train drivers or conductors) are not able to clearly identify at the time when the passenger wishes to board, whether the mobility aid is within the weight limit for the ramp.

9.8 Implementation issues for people with disability

This review also sought views from people with disability on how they consider the implementation of the Transport Standards are progressing and the usability of the Transport Standards for them. Comments received focused on the extent to which people with disability considered they had a clear understanding of their rights under the Transport Standards.

Clarification of rights under the Transport Standards

The Transport Standards are designed to provide guidance to public transport operators and providers on their obligations under the DDA. For the Transport Standards to be effective however, they also need to set out clearly for people with disability what rights they have in accessing public transport. Clarifying for consumers what they can expect in terms of accessibility is important to encourage people with disability to use public transport. In addition, as the Transport Standards are complaint-based regulations and rely on people with disability to lodge complaints where they believe the Transport Standards are being contravened, users need to be aware of their rights and responsibilities.

A number of submissions from individuals and organisations representing people with disability raised a range of concerns about the effectiveness of the Transport Standards in clarifying the rights of consumers. The Australian Federation of Disability Organisations (sub. 11, p. 13) notes that ‘while many organisations working in the disability field are aware of the Standards, there is very little awareness of the Standards at the level of individuals with disability’, a view that is supported by a number of other organisations. For those that were aware of the Transport Standards, people with disability raised the following issues about the accessibility of the Transport Standards as a document:

- the Transport Standards are complex and technical and are not available in a ‘plain English’ accessible version such as a brochure that outlines aims and expectations. This was an issue raised by people with a range of disabilities, although it is of particular concern for people with intellectual disabilities (sub. 79, p. 7). The compliance schedule was noted as particularly difficult to understand; and
- the structure of the Transport Standards with 120 subparts covering multiple conveyances, premises and infrastructure impedes understanding. The Cairns Community Legal Centre (sub. 37, p. 9) proposes moving to a mode based document.

In addition, fully understanding rights and obligations under the Transport Standards requires reference to other documents including the Australian Standards and the Transport Standards Guidelines, which may complicate understanding. Although drafted to clarify the Transport Standards in certain areas, disability groups noted that the Transport Standards Guidelines were not widely known and were not user-friendly as the clause numbers do not correspond to the relevant part in the Transport Standards (sub. 27, p. 2). Blind Citizens Australia (sub. 12, p. 4) noted that Transport Standards Guidelines do provide some clarification of the Transport Standards but still require a high level of literacy and education to understand. There were positive reports from several consumers about the supporting information provided on the Human Rights and Equal Opportunity website.

Where Australian Standards are referenced, the details of that Standard are not always provided so operators and consumers need to access the Australian Standards themselves to fully understand the Transport Standards. Several submissions raised difficulties in accessing the Australian Standards:

- the Australian Standards are not available free of charge and the cost of purchasing all relevant Australian Standards that apply for the Transport Standards is reported to be in excess of \$500 (sub. 49, p. 6);
- the Australian Standards are only available in hard copy or PDF which are not accessible for people with vision impairments; and

- some of the Australian Standards referenced are out of date and have been superseded by new Australian Standards. The Transport Standards reference the Australian Standards by year rather than in their most current form and this has led to inconsistency between States and Territories as some are using the original Australian Standard and others are using the updated one. For example, the Transport Standards reference the 1992 Australian Standard 1428.4 for Tactile Ground Surface Indicators (TGSIs) that has now been superseded by a 2002 Australian Standard, which vision impairment disability groups consider provides a higher level of accessibility.

An example of where the Transport Standards and the Transport Standards Guidelines have created confusion rather than clarified rights for people with disability is in the area of on-route information. Part 27.4 of the Transport Standards – Access to information about location, stipulates that ‘all passengers must be given the same level of access to information on their whereabouts during a public transport journey’. In addition, Part 27.1 of the Transport Standards Guidelines state that ‘the Disability Standards provide that operators or providers will supply all passengers with information necessary to use a transport service’.

Together, these two parts have been interpreted by some consumers with vision impairments to mean that bus operators must provide them with information in an accessible format about their location at each bus stop (sub. 49, pp. 9-10; Jane Bryce Sydney Hearing Transcript 20 July 2007, p. 4). Under the Transport Standards, providers and operators are only required to provide *the same level of access* and as buses do not generally supply information about location to any customers, they are not required to do so for customers with disabilities. However, Part 27.1 of the Transport Standards Guidelines appears to have confused, rather than clarified consumers’ understanding of their rights under the Transport Standards with some interpreting location information as part of ‘information necessary to use a transport service’. Further, disability groups consider that implementation should be consistent across different modes and that ‘it is inexcusable to have one form of transport (trains) announcing stops and another (buses) operating without any announcements at all’ (sub. 32, p. 8), although this is not required under the Transport Standards.

The Victorian Department of Infrastructure submission (sub. 71, pp. 4, 24-25) notes public transport users’ views that the Transport Standards have assisted in clarifying rights. The submission also notes that regular consultation between the Department and a Public Transport Access Committee including disability groups, reinforces understanding and this consultation is an effective way of improving the relevance of the Transport Standards for consumers. However, it was noted that not all people with disability are members of a disability group and as such are not likely to have the same access to information about what the Transport Standards mean for them.

Many of the submissions from individuals and organisations representing people with disability suggested that a community education and awareness campaign to inform people with disability about their rights would be an effective mechanism to improve understanding and support for public transport users. Further, several submissions suggested that this campaign could include a brochure for people with disability outlining the objectives of the Transport Standards, users’ rights and responsibilities, and complaints processes.

Consistency in the implementation of the Transport Standards

It is clear from the submissions and hearings to this review that consistency is of most concern to people with vision impairments who rely on consistent design configurations to navigate the public transport system. People with vision impairments receive orientation training from vision impairment organisations to assist them to travel independently and rely largely on consistent design to learn a new route (Blind Citizens Australia, Canberra Hearings Transcript, p. 18).

As an example, TGSIs are essential for people with a vision impairment to indicate pathways, directions and hazards. There are two types of TGSIs: directional, long linear TGSIs which lead a person in a certain direction; and hazard TGSIs that indicate something of significance such as a bus stop, or a hazard such as a landing on a flight of stairs. Several organisations representing people with vision impairments noted that TGSIs were being implemented inconsistently and in some cases indiscriminately. Vision Australia (sub. 32, p. 8) recounted a situation where:

TGSIs were installed under an open staircase as a warning for a traveller who was blind or had low vision. Although the intention was there, the TGSIs did not warn the traveller that here was a hazard at head height. This is a classic example of where something other than TGSIs could have been used to rectify the danger. For example, a solid barrier.

Blind Citizens Australia (sub. 12, p. 7) also relays this example:

DSAPT [Disability Standards for Accessible Public Transport] should make it clear that TGSIs are not a substitute for poor design. For example, it is not appropriate to use TGSIs to indicate the space under a flight of steps there is a danger that someone who is blind or vision impaired will still move forward and become injured.

In another example provided to the ACT Human Rights Commission (sub. 77, p. 12):

Frustration was expressed about the placement of TGSIs at some bus interchanges. We were told that some lead to useless destinations, including into brick walls.... There is no standard regarding the overall layout of interchanges.

These examples demonstrate that TGSIs have not been implemented consistently. The Transport Standards (Part 18) indicate the locations where TGSIs are to be installed but does not differentiate between the two types of TGSIs. The definition and use of the two types of TGSIs is outlined in the Australian Standards of 2002, however, the Transport Standards reference the 1992 version. Different States and Territories have implemented different versions of the Australian Standards and as such, blind passengers do not know whether to expect a direction or a hazard when using TGSIs.

Despite problems with Australian Standards being superseded since the introduction of the Transport Standards, problems with inconsistent implementation for people with vision impairments across States and Territories are exacerbated where there is no Australian Standard at all. For example, Part 17.7 of the Transport Standards requires raised taxi registration numbers to be placed on the exterior of passenger doors for passengers with vision impairments but does not require a standard presentation. However, for people who have never seen numbers, it is important that all raised lettering retains a similar shape and size across all taxis so that they can be recognised (sub. 12, p. 13).

Public transport systems are not consistent between States and Territories, different local government areas, and even between providers and operators regardless of implementation of the Transport Standards. There is a clear trade off between consistency and flexibility in the provision of public transport. For many people with disability, a consistent approach to implementing the Transport Standards may be desirable as it may streamline accessibility and improve confidence in the service. This desirability needs to be balanced with reduced flexibility for providers and operators and demands for increased consistency may divert funds that could be better used in improving local accessibility. For people with vision impairments however, inconsistent implementation of some parts of the Transport Standards raises significant safety and accessibility issues that deserve attention.

9.9 Conclusions

This chapter has assessed the recent experience of public transport operators and providers in implementing the Transport Standards, as well as the views of people with disability on the efficiency of implementation.

It is fair to say that the first five years of implementation have been challenging for a majority of operators and providers. This is not an entirely unexpected outcome, given the nature of the adjustments required, and the new framework of accessibility that they have been required to work within. Given these challenges, the levels of accessibility achieved, as reported in Part B of this report, are an achievement.

That said, the experience of the last five years has emphasized several gaps in the information and support processes for the Transport Standards. There is a lack of an authoritative source of guidance for providers when addressing cases where requirements are ambiguous, or where there are conflicts with other regulations. There is an additional gap in certification or ‘sign-off’ for providers that what they are doing will be compliant prior to making an investment.

There are also information gaps for people with disability understanding their rights under the Transport Standards, and knowing what to expect. The use of references to Australian Standards limits the ability of people with disability to easily understand what accessible public transport means in practice. This is particularly problematic given that the Transport Standards are complaints-based regulations that rely on people making complaints when they observe non-compliance. This approach will only be efficient and effective when the parties expected to make complaints can understand and identify non-compliance.

Chapter 10

Efficiency of administrative processes

Key findings

Complaints process

- The current complaints process places responsibility on people with disability to lodge complaints with the AHRC. Where AHRC conciliation does not resolve the issue, individuals can progress their case through the Federal Court, or terminate their complaint.
- The current system has been criticised for placing unreasonable cost and responsibility on people with disability to be able to identify non-compliance, and incur the time and financial costs to obtain a resolution.
- Disability representative organisations are concerned that the current system discourages complaints and thus does not drive compliance with the Transport Standards.
- Options to address these issues include broader scope for representative complaints, or a strong role for the AHRC in initiating complaints in the Federal Court.

Reporting and consultative mechanisms

- Reporting on accessibility and compliance against milestones in the Transport Standards is conducted by most State and Territory governments, though not in a uniform framework.
- The consultative mechanisms for the Transport Standards — ATPNAC and APTJC — have limited scope in reviewing and progressing changes to the Transport Standards.
- Stakeholders currently have low confidence in the ability of ATPNAC and APTJC to address problems with the Transport Standards or implement change.
- That said, any consultative mechanism would need to include those groups represented on these two bodies (State and Territory governments, Disability representatives, industry representatives).

10.1 The AHRC complaints process

The complaints process represents the primary method of assessing compliance with the Transport Standards (Section 35.1 of the Transport Standards Guidelines). As such, the effectiveness and efficiency of this complaints process is crucial in maximising compliance with the Transport Standards. While the potential for complaints, rather than complaints themselves, is often a strong driver for compliance with regulations, perceptions of the likelihood of complaints being made also have an influence on the incentive to comply.

Lodging a complaint

Where discrimination on the grounds of disability is suspected, the DDA specifies that a complaint can be lodged with the AHRC. Under the *Human Rights and Equal Opportunity Commission Act 1986* complaints can be lodged with the AHRC by:

- the person who claims he or she has been discriminated against;
- a person affected by discrimination — on his or her own behalf and on behalf of others affected in the same way;
- a person acting on behalf of another person or other people who claim they have been discriminated against (for example, an advocate); and

- an organisation acting on behalf of a person or other people who claim they have been discriminated against (for example, a trade union).

Hence, the DDA allows for another person or an employee group to make a complaint on behalf of individuals unable to undertake the task themselves and for representative complaints to be lodged without the consent of other people. However, under the DDA it is not possible for an organisation representing people with disability to lodge a complaint, unless it is acting on behalf of a specific person or people.

A complaint must be made in writing. The complaint can be a letter or the complaint form (available online or by request from the complaint info line) and may be lodged in email or hardcopy format. There is no cost involved in lodging a complaint. The DDA stipulates that the AHRC must take reasonable steps to provide appropriate assistance to a person wishing to make a complaint that requires assistance to formulate the complaint or reduce it to writing.

Assessing a complaint

In order to assess a complaint the AHRC first determines the nature of the complaint, what laws it falls under, what action should be taken and who should best handle it (i.e. the AHRC or another Federal or State or Territory agency). At this stage the AHRC contacts the complainant to determine the nature and basis of the complaint.

At any time the AHRC may decide to terminate or decline a complaint. This will be done earlier in the process if:

- it is not covered by the legislation;
- in excess of 12 months have passed since the event with no explanation for the delay;
- an alternative authority is better placed to handle the complaint; and
- a better remedy is available.

If the AHRC deems it necessary to investigate the complaint, it contacts the respondent (person or organisation) to seek a response to the complaint. At this stage the AHRC usually provides a copy of the complaint letter or form. In situations where the AHRC deems it easier to resolve the matter a telephone conversation with the respondent may suffice. For more complex issues, a written response is necessary. Respondents are not required to obtain legal advice, though it is allowed. The written response is usually provided to the person who made the complaint.

Where possible, the AHRC pursues early conciliation to negotiate an acceptable agreement with both parties. Early conciliation is most likely to occur if:

- both parties are more or less in agreement over the facts; and
- the discrimination is the result of a misunderstanding or one or both parties not being fully aware of the law.

The AHRC acts as a conciliator, is neutral and does not act for either party. The conciliation process may include: face-to-face meetings, teleconferences or exchanging correspondence. It may involve evidence such as letters, medical records, photographs and witnesses.

The AHRC has the legal authority to compel people to provide any information necessary to investigate a complaint and the power to enforce attendance at a conciliation conference when a person or organisation will not take part on a voluntary basis. Legal penalties including fines and imprisonment can be enforced as a result of failure to supply documents, attend a compulsory conference or for the supply of false or misleading information.

The AHRC reports that the majority of complaints are resolved via conciliation, even when the AHRC is required to compel people to provide information. In many cases conciliation agreements are made on the condition that liability for unlawful discrimination is not admitted and such outcomes do not necessarily provide firm precedents for what outcomes would be in other cases. Additionally, information about conciliation outcomes is not always made public (HREOC, 2007c).

If a fair agreement cannot be reached by means of conciliation, the AHRC will terminate the complaint. In addition to the reasons stated earlier, the complaint may also be terminated if:

- the complaint is lacking in substance;
- the complaint has been adequately dealt with by the AHRC or another statutory body; and
- the complaint involves an issue of public importance that should be considered by the court.

Applications to the Federal Magistrates Court or the Federal Court

If a complaint of unlawful discrimination is terminated, the AHRC issues the person who complained with a:

- notice of Termination;
- letter of Termination — giving full reasons why the complaint was terminated; and
- copy of the original complaint.

If the person who made the complaint wants to continue to pursue the matter after termination they must lodge an application with the Federal Court or the Federal Magistrates Court within 28 days of the notice of Termination. Responsibility for sourcing legal representation and the funding to do so rests with the complainant. In instances where the complaint is terminated because the AHRC determined that the complaint involves an issue that should be considered by the court, assistance from community legal centres and pro-bono arrangements with private sector legal counsel may be sought by the complainant.

Complaints reported to the Attorney-General

In cases where the AHRC is unable to resolve an issue through conciliation and it is judged that human rights have been breached or discrimination has occurred the President of the AHRC reports to the Federal Attorney-General. The Federal Attorney-General then presents this report to Parliament. This report may include recommendations to address any damage suffered by the complainant.

Representative complaints

Several stakeholders queried to this review the degree to which representative complaints can be made under the DDA. The *Human Rights and Equal Opportunity Commission Act 1986* provides an allowance for representative complaints, as detailed in Box 10.1.

Box 10.1

REPRESENTATIVE COMPLAINTS TO THE AHRC

Representative complaints in relation to unlawful discrimination may be made to the Australian Human Rights Commission by order of section 46PB of the Human Rights And Equal Opportunity Commission Act 1986 (HREOC Act):

- (1) A representative complaint may be lodged under section 46P only if
 - (a) the class members have complaints against the same person and
 - (b) all the complaints are in respect of, or arise out of, the same, similar or related circumstances and
 - (c) all the complaints give rise to a substantial common issue of law or fact.
- (2) A representative complaint under section 46P must
 - (a) describe or otherwise identify the class members and
 - (b) specify the nature of the complaints made on behalf of the class members and
 - (c) specify the nature of the relief sought.
- (3) In describing or otherwise identifying the class members, it is not necessary to name them or specify how many there are.
- (4) A representative complaint may be lodged without the consent of class members.

Source: sub. DR44, p.10.

These requirements provide the opportunity for representative organisations, such as disability advocacy groups, to lodge complaints with the AHRC on behalf of people with disability, so long as the ‘class members’ in the complaint have a similar grievance with one party.

The avenues for representative complaints are narrower if AHRC conciliation fails and the complainant wishes to take the matter to the Federal Court or Federal Magistrates Court. In the Federal Court, in order to proceed in the court, a member of the representative class must commence the proceedings and be able to name at least seven members of the class who consent. Under the *Federal Court of Australia Act 1976*, representative proceedings are allowed, but to bring a representative action, a person must have ‘a sufficient interest to commence a proceeding on his or her own behalf’ (s.33D). In practice, this means that an organisation that may want to pursue a matter must specify the individuals that it is representing by name, and provide evidence that each is an ‘aggrieved person’ under the DDA. This effectively means that, while representative complaints are possible, there is narrow scope for broader complaints across service systems or in a particular region.

This issue of ‘standing’ received publicity in the case of *Access For All Alliance (Hervey Bay) Inc v Hervey Bay City Council* (2007), where the Access For All Alliance as the applicant was not a ‘person aggrieved’ and therefore did not have standing to make a complaint. Details on this case are provided in Box 10.2.

Box 10.2

CASE OF ACCESS FOR ALL ALLIANCE (HERVEY BAY) INC VS HERVEY BAY CITY COUNCIL

In 2005 the Access For All Alliance (Hervey Bay) Inc (AAA), an incorporated association, brought proceedings in the Federal Court against the Hervey Bay City Council. AAA alleged that a number of bus stops within the Council’s jurisdiction which had been constructed or significantly upgraded since the commencement of the Transport Standards did not comply with those standards.

The Council sought a summary dismissal on the basis that AAA lacked standing, particularly that it was not the “aggrieved person”. AAA argued that this was a question that had already been determined by the AHRC at the time of accepting the complaint. The Federal Court rejected AAA’s argument because the intent under the HREOC Act was to create a complaints-handling procedure that was efficient and unburdened by legal technicalities. Ultimately, the Federal Court found that AAA was not the aggrieved person for the purposes of the HREOC Act and the case was summarily dismissed. There were multiple reasons for this decision including

...in order for a person to be “aggrieved” the test is objective, not subjective. A person does not qualify merely because he or she feels aggrieved by the conduct. He or she, in the judgment of the Court, must, in truth, be aggrieved by that conduct and not merely have an intellectual or emotional concern in the subject matter of the proceedings.

The Federal Court left open the prospect that an incorporated association may have standing as a person aggrieved if a particular matter affected the interests of all of its members.

Source: FCA 615, Hely, B 2007 ‘Access denied: Limited standing of a human rights organisation to commence discrimination proceedings’ *Law Society Journal*, October 2007, p. 46.

10.2 The effectiveness of enforcement via a complaints based system

The effectiveness and equity of the current complaints based system of compliance was questioned by many stakeholder submissions to this review. Three fundamental issues raised were:

- barriers to making a complaint, including information barriers and cost barriers;

- the degree to which complaints are progressed and suitable resolutions are achieved, particularly if resolution of the complaint requires it to be progressed to the Federal Court or Federal Magistrates Court; and
- doubts over the ability of the system to drive system-wide compliance with the Transport Standards.

Barriers to making a complaint

Disability representatives are concerned that only a small proportion of people with disability would be in a position to make a formal complaint about non-compliance (given constraints on their knowledge of the requirements of the Transport Standards, understanding of the complaints system and willingness to go through the process). Blind Citizens Australia noted in their submission that many people found the process daunting

As an organisation which assists people who are blind or vision impaired to make formal complaints relating to DSAPT [Disability Standards for Accessible Public Transport], BCA feels that while many people who are blind or vision impaired are aware that they can make complaints using the Disability Discrimination Act 1992, the process is often quite daunting. In many instances, complaints can run for months and cause great distress in the meantime. Transport providers often have extensive financial and legal resources, which provide an advantage if conciliation fails and the matter has to go to the Federal Court/Federal Magistrates Service (sub. 12, p. 18).

Queensland Transport, in their submission to this review, noted the variety of reasons why people with disability would avoid making a complaint

Anecdotally, there would be many persons with a disability who have genuine issues regarding the level of accessibility available to them on all transport modes, however there would be a reasonably large proportion of this group who are dissuaded from lodging a complaint, for many reasons. These reasons may include a lack of awareness or knowledge of the process, lack of support to make a complaint, a feeling that it would result in a personal burden which would take a long time to resolve, fear of reprisals from respondents and so on. In small communities, it is likely that there is a perception that a person who complained could be singled out as a trouble maker (sub. 50, p. 13).

The costs of making a complaint to the AHRC and progressing through court proceedings include:

- general costs of learning about the complaints process — people may need assistance from an advocate or lawyer;
- costs of preparing a complaint, including the cost of the time required, which could be significant if the complaints process is drawn out;
- costs of legal representation if the person requires it but does not qualify for government sponsored legal aid or pro bono (free) assistance from private law firms costs associated with losing at court - if the complainant loses, there is a risk that they will have to pay the respondent's costs; and
- 'intangible' (non-monetary) costs, such as stress or anxiety in participating in the complaints process. (Productivity Commission 2004, p. 367).

Estimates of costs of legal advice for the AHRC conciliation process are in the range of \$5000 to \$10 000 (Productivity Commission 2004, p.368). Legal representation at conciliation is not mandatory, though around 40 per cent of complainants have representation (HREOC 2002). Legal representation at Federal Court will cost in the range of \$30 000 to \$40 000 (Productivity Commission 2004, p.368).

Degree of resolution of complaints

This review found a reasonable level of satisfaction with the management of complaints through the AHRC. As shown in Table 10.1, in 2006-07 44 per cent of complaints made to the AHRC under the DDA were conciliated by the AHRC, indicating that the process is effective in providing a resolution for both parties. In this year, overall satisfaction with the AHRC's role in managing complaints was high (HREOC 2007g). Survey data collected by the AHRC suggests that a majority of parties in conciliated outcomes are satisfied with the settlement terms (HREOC 2002).

Table 10.1

OUTCOMES OF FINALISED COMPLAINTS TO THE AHRC UNDER THE DDA, 2006-07

Outcome	Number	Percentage
Terminated	285	42
At complainant request – s.446PE	-	
Not unlawful	13	
More than 12 months old	2	
Trivial, vexatious, frivolous, misconceived, lacking in substance	141	
Adequately dealt with already	3	
More appropriate remedy available	5	
Subject matter of public importance	-	
No reasonable prospect of conciliation	121	
Withdrawn	91	14
Withdrawn, does not wish to pursue, advised the Commission	86	
Withdrawn, does not wish to pursue, settled outside the Commission	5	
Conciliated	295	44
Administrative closure	11	
Total	682	

Note: Administrative closure refers to cases where it is determined that the complainant is not an aggrieved party or where there is a previous complaint lodged.

Source: Australian Human Rights Commission Annual Report, 2007.

For those cases which are terminated due to there being no reasonable prospect of conciliation, only a very small proportion progress to the Federal Court or Federal Magistrates Court. Data from the AHRC suggest that since 2000, under the DDA (not just the Transport Standards), there have been:

- 2 judgements in the High Court;
- 35 judgements in the Federal Court; and
- 56 judgements in the Federal Magistrates Court.

These cases represent a small proportion of total terminated cases in the same period. This evidence suggests that the majority of terminated cases are not progressed further, though the outcomes of these cannot be determined. Survey data from the AHRC suggests that costs have some influence over the decision not to take complaints forward to court

26 per cent of complainants whose complaints could not be resolved by conciliation stated that they did not proceed to the Federal Courts because the process ‘would be complex and involve too much time and effort’. Almost 30 per cent of complainants who settled even though they were not satisfied with the settlement terms did so for this reason (Productivity Commission 2004, p. 370).

Effectiveness in driving systematic compliance

Individual complaints handling has the advantage of being highly responsive to the particular circumstances of the person making the complaint. That is, the assessment of the complaint is based on the individual’s circumstances and experience. In this way, conciliated outcomes may be highly specific to the individual complainant (for example, an apology, financial compensation or changes to the infrastructure or service referenced in the complaint). While these outcomes of conciliation meet the needs of parties involved, it is less certain that they can improve compliance across the board.

Individual complaints can assist in driving systematic compliance when the outcomes of complaints are publicly reported and there is greater transparency in the proceedings. Representative cases are also more likely to have a broader impact on compliance, particularly where they are able to focus on a series of incidents or broader system failures, rather than individual instances.

Conversely, service providers reported that the complaints based compliance system of enforcement was resulting in a lack of certainty and clarity with regard to their practical obligations under the Transport Standards. Under the present arrangement, the only way that service providers could be certain that they were conforming to the Transport Standards was for the provisions to be tested in the Federal Magistrates Court or the Federal Court (as discussed in chapter 9 of this report). As such, the threat of a complaint may lead to service providers being involved in practices that risk their own safety or the safety of others.

The complaints driven nature of the HREOC process provides little scope to refuse access at threat of a complaint and is compromising existing safe workplace practices for bus and coach industry staff and imposing significant costs on the industry in the form of injury, rehabilitation and compensation (sub. 87, p. 4).

Some organisations and individuals representing the interests of people with disability also suggested that a complaints driven compliance system encouraged service providers to assess the likelihood of a successful complaint or complaints against the cost involved in complying with the Transport Standards.

There is a ‘risk management’ approach by government and operators – who often weigh the costs of a potential complaint being taken against the cost to make change. This is often not a productive approach and means some change might never happen. Changes must be made in the public interest rather than in response to a predicted number of complaints (sub. 82, p. 8).

Finally it was noted that, the nature of the enforcement of the Transport Standards through a complaints mechanism rather than an alternative regime may result in attitudinal discrimination against people with disability.

The notion of enforcement through the means of a 'complaints mechanism' constructs the 'complainer' as the adversary. This means that aggrieved passengers with a disability (many of whom are socially, transport and financially disadvantaged) are obligated to 'complain' to remedy breaches of a legislated 'right' to equity (sub. 50, p. 13).

10.3 Overlap of complaint avenues

There are multiple avenues through which a person with a disability or someone acting on their behalf may make a complaint. These include complaint lines operated by service providers, State and Territory ombudsmen, State and Territory based anti-discrimination bodies and the AHRC. This multiplicity of options is confusing:

The HREOC complaints process is not well understood by the public and is often confused with other complaints processes. These include operator customer feedback systems, the Victorian Public Transport Ombudsman (who deals with referred complaints not satisfactorily resolved by operators), and complaints under State Equal Opportunity legislation. (sub. 71, pp. 6-7)

It was further noted that the overlap was not accompanied by any consistency of approach because there was no uniformity in the assessment of complaints and the subsequent remedies and sanctions applied.

Presently, complaints can be directed to HREOC or to a respective State / Territory based Anti Discrimination Commission, Tribunal or Board. There appears to be no mechanism in place to ensure congruency of decision making between these entities, especially in terms of penalties, sanctions or remedies, and accordingly the potential exists for markedly different outcomes to spring from what are otherwise similar circumstances. (sub. 20, p. 5)

Both service providers and representative groups for people with disability reported that the AHRC complaints process and subsequent efforts to negotiate conciliation could be a time-consuming and costly exercise.

In SWAA's experience people with disability commonly put up with breaches or infringements of their rights under the Disability Discrimination Act (DDA) because they are not aware of their rights or because they find the existing system that they are required to use to enforce their rights far too time consuming, exhausting, and potentially costly, due to the prolonged and legalistic nature of the complaint resolution process. (sub. 23, p. 1)

HREOC complaints processes are costly and time-consuming for all parties involved. It is a substantial task for providers and operators to communicate all the data and issues associated with a complaint. (sub. 71, p. 7)

It was further highlighted by Blind Citizens Australia (BCA) that most people with disability felt that taking a complaint to the Federal Magistrates Court or the Federal Court for a decision was too expensive and uncertain.

For example, BCA lodged a complaint against a rail operator for not providing TGSIs to mark out a flight of stairs. The company in question believed that they had provided an adequate alternative in the form of a lift. BCA maintained that lifts were not always appropriate for people who are blind or vision impaired. Lifts can break down, and if they lack Braille buttons, speech notification of which level a patron is on, and TGSIs outside the doors, lifts can be inaccessible. The conciliation process went on for two years, and ended when the respondent decided not to conciliate on the basis that there was no national consensus of usage, style and implementation of TGSIs and until there was one, they were complying with the Standards by enforcing the minimum required. The complainant decided they could not afford the money and stress associated with a Federal Court case to decide the matter so it resulted in two years of negotiations that led nowhere. (sub. 12, p. 18)

There was widespread support for the reform of the complaint resolution process to make it quicker and simpler for all involved. In particular, the Australasian Rail Association felt that additional vetting of complaints for detail and clarity by the AHRC prior to involving the potential respondent was warranted.

Should a complaint be first lodged with Commission, Rail Operators desire a properly formatted and detailed report allowing dialogue with the Commissioners. HREOC needs to make an assessment whether the complaint breaches the requirements of the Standards before sending the complaint to the operator for a formal response. Currently, all complaints no matter how lacking in detail about the exact nature of the discrimination are forwarded to operators for a formal response which imposes an unnecessary penalty of cost, time and resources. (sub. 17, p. 32)

Finally, it was reflected that people with disability who were experiencing accessibility issues were less likely to make complaints because recently publicised complaints had not resulted in any action. It was suggested that people with disability had lost faith in the effectiveness of the AHRC complaints process.

In other words, many people with disability have no trust or belief that the complaints processes are actually resulting in genuine changes. (sub. 11, p. 18)

There was a suggestion that the AHRC should have the power to instigate court cases where they considered there was systematic non-compliance with the Transport Standards or a need to establish a precedent to clarify compliance requirements. This was seen as a way of reducing the burden of a complaints based compliance system on people with disability.

I think that we should give to the Commission the same powers as ASIC has or similar powers. I understand that there's a concern about the potential for conflict of interest between HREOCs power to conciliate and any potential power to initiate complaints but I think we can put rock solid, cast iron separations between the complaints mechanisms of the Commission as a whole and the Disability Discrimination Commission in particular to give to that Commission the power to take action at a systemic level. (Douglas Herd, Sydney Hearing Transcript, 20 July 2007, p. 30)

10.4 Reporting processes

There is currently no standard mechanism for reporting against milestones in the Transport Standards. Most States and Territories have developed their own Action Plans, which report on current accessibility, and future targets and strategies. These plans are not mandatory, though they can be used as evidence of progress against the Transport Standards in the course of a complaint being heard.

The lack of mandatory uniform reporting on progress against the Transport Standards limits the capacity of this review (and future reviews) to assess the effectiveness of the Transport Standards. It also limits compliance mechanisms, as the only basis on which complaints will be made is on individual experience. This approach limits the capacity of the current complaints process to lead to systematic changes (as complaints are typically resolved by compensating that individual rather making more significant changes).

Given that the Transport Standards are complaints-based regulation, there may be a disincentive for providers to report on accessibility, if they consider that they are unlikely to meet the required targets. The current arrangements are therefore creating an information asymmetry, and therefore leading to a poor regulatory outcome.

Disability organisations reported their frustrations with obtaining data on accessibility from providers, as Blind Citizens Australia noted

At present, the only consistent measures of progress available to BCA are member feedback and HREOC complaints. There is no consistent compliance reporting mechanism for States and Territories. This makes it difficult to gauge both the true level of compliance and the degree of inconsistency between States and Territories. The level of active non-compliance – rates at which providers are not complying and do not have exemptions – also remain unmonitored. (sub. 12, p. 3)

Spinal Cord Injuries Australia also emphasized the importance of collecting data on patronage, to strengthen the case for accessible public transport

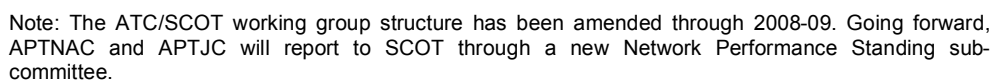
Data capture is one of the most important elements of increasing accessibility. If we are to make a business case, operators need to see that changes in increasing accessibility lead to increased patronage whether it be taxis, buses, trams, airlines or trains. (sub. 76, p. 6)

APTJC has sought to develop a standard reporting framework, though to date it has not been able to come to agreement on a preferred approach. The proposed system, developed by an APTJC sub-committee, was a database approach which involved data input into a spreadsheet. The model was rejected by some State and Territories and was not progressed. The Draft Report for this review proposed that a mandatory reporting framework be adopted, to be coordinated by APTJC.

10.5 Consultative mechanisms

The main consultative mechanisms for the Transport Standards are the Accessible Public Transport Jurisdictional Committee (APTJC) and the Accessible Public Transport National Advisory Committee (APTNAAC). These committees fit into a broader consultative structure for transport policy issues, with the arrangements up to early 2008 shown in Figure 10.1

CONSULTATIVE FRAMEWORK FOR ACCESSIBLE TRANSPORT (AT FEBRUARY 2008)



APTJC is chaired by DITRDLG, with membership from each State and Territory. The Australian Government Attorney-General's Department is an observer on the Committee. APTJC normally meets a minimum of twice a year (although these processes have been held over during the conduct of this review).

- providing a forum to discuss, streamline and simplify governments' positions on issues discussed at APTNAC meetings;
- providing reports to the Australian Transport Council (ATC) and its bodies on jurisdictional implementation of the Transport Standards; and
- providing cross-jurisdictional transport advice to the AHRC on exemptions from the Transport Standards.

The Accessible Public Transport National Advisory Committee (APTNAC)

APTNAC provides a consultative framework to progress national accessible transport issues. APTNAC is not intended to provide an ongoing mechanism to review the technical detail of the Transport Standards. The membership of APTNAC comprises representatives from:

- peak industry bodies currently comprising the Bus Industry Confederation, Australian Taxi Industry Association, Australasian Rail Association (ARA), the International Association of Public Transport (UITP), Qantas Airways Ltd, Virgin Blue, the Australian Airports Association and the Regional Aviation Association of Australia;
- the disability community, currently comprising the National Disability Advisory Committee (NDAC) and the Australian Federation of Disability Organisations (AFDO);
- all State and Territory Government Transport or equivalent Departments;
- Australian Local Government Association (ALGA); and
- DITRD LG.

The AHRC and the Australian Government Attorney-General's Department have observer status at the meetings. APTNAC normally meets a minimum of twice a year (although these processes have been held over during the conduct of this review).

Stakeholder views on the current consultative arrangements

This review heard frustration from public transport operators and providers about the adequacy of consultative mechanisms around the Transport Standards. As the joint industry submission to this review noted

The structure and functionality of both these committees has been inadequate to progress a number of issues to a satisfactory resolution. This could have grave implications in the event of an incident or accident in the delivery of a passenger transport service where serious injury or death result. It is to be noted that APTNAC is merely an advisory committee, and the merit of maintaining APTJC as a separate committee is unclear. (sub. 20, p. 2)

The Australian Taxi Industry Association noted in their submission that there is a need for either APTNAC or APTJC to take a large role in providing information to public transport operators and providers

It is the view of the ATIA that the Commonwealth Government either directly, or through the Accessible Public Transport Jurisdictional Committee (APTJC), or through APTNAC could have been far more active and effective in informing operators and providers of public transport of their obligations under the DSAPT [Transport Standards]. (sub. 51, p. 21)

The Australian Federation of Disability Organisations expressed concern about the infrequent meetings of APTNAC

The infrequent meetings of the APTNAC means that people with disability have few opportunities to influence and contribute to the implementation of the Standards. (sub. 11, p. 11)

Some stakeholders also suggested that APTNAC should have its own modal sub-committees, and perhaps use these to develop modal guidelines. For instance the Physical Disability Council of Australia suggested

Initiate the modal groups under APTNAC to allow for a central and controlled approach to the application of DSAPT. (sub. 80, p. 6)

While the Australian Federation of Disability Organisations noted

The United Kingdom equivalent to the Accessible Public Transport National Advisory Committee (APTAC) meets monthly and has modal specific sub-committees. By contrast, the APTNAC meets for one day, twice a year. The modal committees that were established soon after the introduction of the Transport Standards were not backed by the funding required to prepare well researched, evidence-based guides, and their good work was lost. (sub. 11, p. 11)

Information on these committees provided by DITRDLG indicates that the governance structure and function of the processes, as agreed by APTG, are advisory through the initial years of operation of the Transport Standards. While modal sub-committees were used in the development of the Transport Standards, they were not intended to have a longer-term role in progressing the operation of the Transport Standards during their implementation.

10.6 Conclusions

The complaints process was a topic that attracted wide comment in consultations; with many stakeholders feeling strongly that the current process is flawed. Disability organisations are concerned that the current arrangements place too much responsibility on individuals to make complaints, and to progress these complaints to the Federal Court. The financial costs for individuals in doing this are considerable. One suggested approach to address this concern is to provide the AHRC with powers to take complaints directly to the Federal Court, where the AHRC considers there is a large problem with a particular provider, region or type of conveyance or infrastructure. This approach may also address some of the current information gaps and uncertainties identified in chapter 9 of this report (by establishing firm precedents). An alternative is to broaden the scope for representative complaints.

The lack of reporting on accessibility limits the capacity of reviews, such as this one, to assess the impact of the Transport Standards. It also limits the efficiency and effectiveness of the complaints-based approach to compliance. Indeed, there is currently a disincentive for non-compliant parties to report on accessibility.

APTJC and APTNAC appear to have had only limited usefulness for providers and people with disability, in terms of addressing problems with the Transport Standards. Given the gaps in information and support processes around the Transport Standards identified in chapter 9 of this report, the limited scope and activities of these committees is a concern. There is clearly an unfulfilled need to provide more information to public transport operators, providers and people with disability, either through an expanded role for APTG and APTNAC, or another body.

Part D

*Assessment of regulatory and non-regulatory
options for change*

Chapter 11

Assessment of regulatory and policy options for change

11.1 Overview of key findings

The Transport Standards have significantly changed the way that governments, public transport operators and providers think about access to public transport for people with disability. Prior to the introduction of the Transport Standards, while obligations existed in the DDA, there was no focused effort to remove discrimination in any systematic way (though some improvements had been made). The Transport Standards have been effective in bringing forward investment in accessible infrastructure and conveyances, and requiring public transport operators and providers, both public and private, to plan and implement upgrades to assets for which they have a responsibility.

While a single number estimate of progress against five year milestones can not be made, this review has reported evidence of increased investment in accessible public transport and growth in accessible services and infrastructure. This has facilitated the removal of discrimination, which is the ultimate objective of the Transport Standards by the end of their 30 year implementation timetable.

Many stakeholder comments to this review expressed both frustration and disappointment with the implementation of the Transport Standards in the first five years. These comments have been acknowledged, and to some degree, supported in preceding chapters, and will be further assessed in this chapter. It is, however, important to acknowledge the achievements of the Transport Standards since their introduction, despite their limitations. Many stakeholders who reported problems with the Transport Standards also acknowledged that progress has been made. Moreover, much of the criticism of slow progress arises because of the intended design of Transport Standards to include staged compliance targets — the five-year targets therefore cannot be expected to provide whole of journey accessibility (in most instances). This has led to frustration and impatience with progress, as one stakeholder noted:

... by and large, things are getting better, but it's too slow, and there's a whole heap of people just trapped in the middle. In some ways, it might be better to say, "No, you can't come out and use public transport," rather than let us have this expectation of doing things and then being chopped off. (Mr Scott, Adelaide Hearing Transcript, pp 34-35)

In this regard, when considering the overall performance of the Transport Standards, and their effectiveness in removing discrimination for people with disability, it is important to acknowledge the gradual implementation process, and the staged nature of the original targets. This process, which is appropriate given the significant costs involved in upgrading infrastructure and conveyances, means that outcomes achieved will also be incremental.

This notwithstanding, the first five years of implementation of the Transport Standards have presented considerable challenges, and have been difficult for all involved. While the intention of the Transport Standards is to improve certainty of outcomes under the DDA, there remain several areas where obligations are uncertain, or where there is no agreement on the intended outcome from the Transport Standards. Further, how the Transport Standards operate in conjunction with other legislative requirements remains unclear in several areas.

This review has been asked to identify:

- potential amendments to the Transport Standards, in response to identified problems in the first five years of their implementation; and
- changes to the administrative, governance and information structures and processes that support the Transport Standards, where appropriate.

In considering such changes, the review must:

- define the problem to be addressed — essentially drawing from the evidence in Parts B and C of this report;
- propose and assess options to address the problem, including the option of maintaining current arrangements; and
- where regulatory options are proposed, assess the costs on business of compliance with the changes, and impacts on individuals.

These stages of analysis are consistent with Australian Government guidelines for Regulation Impact Analysis, and represent best practice regulatory analysis.⁷

The Government's best practice requirements for regulation apply to:

- all proposals with regulatory and quasi-regulatory obligations being brought to Cabinet by Ministers;
- letters with regulatory and quasi-regulatory obligations being referred to the Prime Minister by Ministers for approval;
- proposals with regulatory or quasi-regulatory obligations of Ministers, statutory authorities, boards and regulators; and
- treaties.

The Australian Government has adopted a three tiered system to assess all regulatory and quasi-regulatory proposals.

- All regulatory proposals are required to undergo a preliminary assessment to establish whether they are likely to involve an impact on business and individuals or the economy, whether or not they are considered by the Cabinet.
- If the preliminary assessment shows that a proposal potentially involves medium compliance costs, a full assessment of the compliance cost implications should be carried out using the Business Cost Calculator or approved equivalent.

⁷

The Australian Government Office of Best Practice Regulation (OBPR) developed the Best Practice Regulation Handbook which sets out the processes for analysis of proposed changes to regulations or legislation (Australian Government 2007, *Best Practice Regulation Handbook*, Canberra)

- Proposals that have a significant impact on business and individuals or the economy (whether in the form of compliance costs or other impacts) require more detailed analysis documented in a Regulation Impact Statement (RIS). If the impacts include medium or significant compliance costs, the BCC report forms part of the RIS.

Box 11.1 sets out the elements of a Regulation Impact Statement.

Box 11.1

REQUIREMENTS FOR COMPLIANCE FOR REGULATION IMPACT STATEMENTS

- | |
|--|
| <ol style="list-style-type: none">1. Identify and assess evidence of the problem2. Identify the objective of government intervention3. Develop options to achieve the objective4. Impact analysis of options5. Identify the preferred option6. Consultation7. Establish implementation and review mechanisms |
|--|

Source: Australian Government 2007, *Best Practice Regulation Handbook*

This review report does not constitute a RIS in the usual sense — where one policy problem is identified, regulatory and non-regulatory options are assessed, and a recommended option is put forward by government (in the process of a cabinet submission). This review, in contrast, provides the views of the Allen Consulting Group in assessing the appropriateness, effectiveness and efficiency of the Transport Standards in their first five years of implementation. Further, the issues addressed through this review include a mixture of regulatory, policy and governance/administration issues, many of which are not typically required to be assessed through the RIS process (as noted above). To the extent that government agrees to adopt recommendations in this review report, the subsequent government policy or regulatory proposal may require a RIS to be completed. The Terms of Reference for this review do, however, require that the analysis of the problem and options conform to the requirements of a Regulatory Impact Analysis (RIA), which is what is set out in this chapter and the supporting Appendices G and H, which are structured to reflect the RIS requirements (including providing full tables on business compliance costs).

This review canvasses an extensive set of issues, reflecting both the range of stakeholders affected by the Transport Standards, and their scope. It is important for this review to identify the key issues for consideration by government, which can be addressed through changes to the Transport Standards, the supporting administration or policy. That is, to take the breadth of issues identified through research and stakeholder comments and bring forward the most critical issues to be addressed.

These issues can be categorised as:

- issues which impact on the effectiveness of the Transport Standards across a majority of modes of transport and stakeholders — systemic issues; and
- issues specific to particular modes of transport — mode specific issues.

These specific problems, and options to address them, are discussed in the following sections.

11.2 Systemic issues

This review has identified a number of problems with the current application and implementation of the Transport Standards that have an impact across all modes of transport.

Table 11.1

KEY ISSUES AND PROBLEMS IDENTIFIED IN REVIEW ANALYSIS

Area of review assessment	Discussed in...	Key issues/problems identified
Effectiveness of the Transport Standards in removing discrimination	Chapter 6	1. There is a lack of data to assess progress against the Transport Standards
		2. There is a lack of data on patronage of public transport by people with disability
Effectiveness of the regulatory approach	Chapter 7	3. Referencing of Australian Standards in the Transport Standards limits the ability of people with disability to understand required outcomes from the Transport Standards
		4. Some references to Australian Standards are inappropriate for conveyances or transport infrastructure
		5. The Transport Standards do not provide sufficient flexibility to accommodate specific characteristics of modes of transport
Effectiveness of implementation of the Transport Standards	Chapter 9	6. There are barriers to operators and people with disability in identifying compliant mobility aids
		7. There is insufficient information sharing on best practice examples of accessible public transport
		8. The costs of upgrades in rural and regional areas have the potential to delay or impede compliance with the Transport Standards
Efficiency of implementation of the Transport Standards	Chapter 10	9. Compliance relies on complaints by people with disability
		10. Current governance arrangements do not provide sufficient mechanisms to address problems with the Transport Standards

Key issue 1 — Availability of information on compliance with the Transport Standards

Problem: Lack of information on progress against Transport Standard milestones.

Chapters 6 and 10 of this report describe the lack of standard compliance reporting on the Transport Standards, including information on accessibility. The lack of reporting on accessibility constrains the capacity of reviews, such as this one, to assess the effectiveness of the Transport Standards. It also limits the efficiency and effectiveness of the complaints-based approach to compliance, which leads to a disincentive for non-compliant parties from reporting on accessibility.

Furthermore, a lack of standard compliance reporting means that people with disability have limited awareness of accessibility which limits their ability to monitor non-compliant parties and proceed with complaints. The current arrangements are therefore creating an information asymmetry, leading to a poor regulatory outcome.

Options to address the problem

The Draft Report recommended that a mandatory reporting framework be developed, which would require reporting against compliance targets in the Transport Standards. Similar initiatives have been attempted previously but parties have been discouraged due to difficulty in getting a consensus on the preferred approach (primarily between government agencies). As the Victorian Government noted in comments on the Draft Report:

This recommendation is supported however it should be highlighted that APTJC developed the current excel based compliance audit reporting methodology and reached agreement at officer level with all jurisdictions except one. However as approval processes for the release of data progressed through the different jurisdictions the outcomes became more variable. Data is also variable in availability, currency and accuracy. Victoria has adopted the agreed methodology with all its operators and released full compliance data against all milestones to 2032 for all modes of train, tram, bus and taxi and for conveyances, premises and infrastructure.

A majority of stakeholders consider that a consistent reporting framework would be a valuable initiative for all parties, though the nature of the information collected is important. The ARA noted in comments on the Draft Report that a focus on reporting of compliance specifically is not appropriate:

The ARA strongly advocates a new reporting framework based on accessibility of service provision rather than compliance. Rail operators rely on all avenues available to them under the DSAPT to meet compliance including strict compliance, equivalent access including direct assistance, exemption provisions and, in certain circumstances, unjustifiable hardship. (sub. DR31, p.9).

As identified by the ARA, a key problem with reporting directly on compliance is that the Transport Standards set targets that do not lend themselves to such reporting. The purpose of the Transport Standards is to set targets for Transport providers and operators which allow them to meet their obligations under the DDA. These targets are not the only way in which obligations can be met — providers may choose to use an equivalent access solution, or claim unjustifiable hardship if they are unable to comply. Direct reporting by transport operators and providers against targets does not capture these other means of meeting obligations.

Reporting data on accessibility of service provision, rather than direct compliance, is essentially what this review has attempted to do in Part B of this report, albeit with a range of different sources, gaps and inconsistencies in what is reported. The ARA suggestion has merit, and would essentially involve bringing in mandatory reporting of accessible services based on current Action Plan processes.

Disability Action Plans currently provide information on accessibility and planned investment to meet future Transport Standards compliance. Action Plans can be used as part of a defence against a complaint, enabling the provider to show that they have a future strategy for meeting the targets within the Transport Standards.

It is unlikely to be cost effective to require all transport providers to develop Action Plans, particularly small private providers. Information provision on progress with the Transport Standards would be greatly improved where a mandatory Action Plan reporting framework was agreed for each State and Territory, which would have carriage of reporting their Action Plan information on current and planned accessible public transport (public and private provider information, where available). Once implemented by State and Territory governments, the reporting framework should be expanded to cover large private transport providers that are not captured in State and Territory reports (the most obvious example being airlines).

All State and Territory governments currently produce Action Plans, which report both current service provision and future planned investment. Developing a common framework for these reports, and an agreed reporting timeframe would provide data, on a reasonably consistent basis, at minimal cost (as practices already exist). This data could be compiled at a national level and used in subsequent reviews of the Transport Standards.

Costs and benefits of proposal approach

The costs of this proposal would include:

- costs to governments of developing and agreeing the new framework;
- costs of annual reporting, where these are in addition to the costs of current Action Plan updates (these costs will vary across jurisdictions, depending on current reporting); and
- costs to business on responding to data requests.

The benefits of this proposal would include:

- benefits for people with disability and disability representative organisations in understanding current service provision;
- potential benefits through reduced complaints, where the information provided would have otherwise been sought through the complaints process; and
- benefits to all stakeholders in having future five year reviews using consistent data on progress.

All government providers currently publish some form of Action Plan, through which the information on accessibility is already being collected. A proportion of the identified costs are, therefore, already being incurred, albeit to differing degrees across jurisdictions. The additional compliance costs identified are expected to be low for business, and therefore would not require a full cost-benefit analysis for RIS compliance.

Key issue 2 — Availability of information on patronage of public transport for people with disability

Problem: Lack of information on patronage to support five year reviews.

At present, there is no collection of data on patronage trends for people with disability on public transport. The collection of patronage data, while not a performance indicator under the Transport Standards, is one method of measuring the effectiveness of the Transport Standards in improving accessibility for people with disability. It can provide information about:

- the spread of improvements in accessibility for people with different types of disability; and
- the spread of improvements across modes of public transport.

The collection of patronage data will also improve the capacity of the community to make comparisons of progress between jurisdictions and encourage best practice.

Options to address the problem and impact

The Draft Report for this review suggested that the Australian Government work with the ABS to include collection of data on public transport use in its main disability survey (Disability, Ageing and Carers, cat. No. 4430.0). This proposal received very strong support from stakeholders who commented on the Draft Report.

The costs of this option are considered to be minor, relating to:

- costs incurred by government in developing additional questions and making changes to surveys. The ABS advises that it may not charge the requesting agency for the change if it considers that the additional question is a valuable addition to their data set. In some cases, it is possible to put together those data items without asking any extra questions; and
- costs to survey respondents of additional questions asked, which are essentially time costs. Given the additional information could be collected with 2-3 additional questions, these costs are considered to be low (as the costs of participating in the survey are already being incurred).

On the basis of this assessment, no further assessment of business compliance costs is considered necessary.

Key issues 3 and 4 — Accuracy and transparency of technical standards within the Transport Standards*Problems:*

References to Australian Standards in the Transport Standards limit the transparency of required outcomes, particularly for people with disability.

Several referenced Australian Standards, developed for the built environment, cannot be applied to conveyances.

Chapter 7 of this report provides a detailed discussion of the use of Australian Standards within the Transport Standards. This analysis highlights two problems with the use of referenced Australian Standards.

First, references to Australian Standards, without specifying the technical outcomes, limit the transparency of required outcomes. The Transport Standards, as currently drafted, do not provide immediate access to all information necessary to understand the requirements for a particular conveyance or type of infrastructure. This issue of access to Australian Standards has been the subject of broader debate, such as in relation to references in the Building Code of Australia. There is, however, an important distinction between references in building or consumer products regulation, and disability standards. The Transport Standards are enforced using complaints-based systems, not with certification (unlike building regulations). In order to make informed complaints about compliance with the Transport Standards, people with disability need to have available to them information on what the Transport Standards require, at minimal cost to them.

The second problem relates to applying Australian Standards developed for the built environment to public transport. These are set out in Chapter 8 of this review, and many of them were the subject of the ARA exemption application to the AHRC. Advice from Standards Australia suggests that, while it would be possible to make referenced Australian Standards accessible (perhaps through payment of copyright royalties), there would remain important technical problems with how the Australian Standards are applied within the Transport Standards.

There are likely costs to stakeholders of leaving the Transport Standards as they are. For example, both public transport providers and public transport users reported to this review that they are uncertain as to their obligations and rights, respectively. If no changes were made to the current Transport Standards, the following impacts may occur:

- costs to public transport providers associated with researching and defending perceived non-compliance;
- costs to public transport users associated with researching and submitting complaints related to perceived non-compliance;
- costs to public transport providers associated with complying with unnecessary or inappropriate Transport Standards; and
- sub-optimal accessibility outcomes for people with a disability if public transport providers opt for securing exemptions or for non-compliance with the Transport Standards, rather than seek a solution to meet current requirements.

Options to address the problem and impact

There are two options for addressing these problems.

Option 1: Australian Government purchase the right to include Australian Standards text in the Transport Standards.

The Australian Government can obtain a copyright licence to reproduce the text from the Australian Standards in the Transport Standards. The cost of obtaining a copyright licence to duplicate all of the Australian Standards that are currently referred to in the Transport Standards would entail \$10 000 as an initial payment, and \$5000 a year for each subsequent year.⁸ The corresponding benefits from this are that public transport providers and public transport users could know their obligations and their rights by referring to a single document, rather than having to cross-refer from the Transport Standards to the Australian Standards. This is particularly of benefit to public transport users, as public transport providers (particularly the larger ones) are more likely to already have access to the Australian Standards in order to comply with other regulations and standards, or seek advice from experts who have access to the Australian Standards.

This option may improve compliance, through improved information flow to providers, though this is likely to be only for smaller providers (for the reasons noted above, larger providers should already have access to Australian Standards).

More importantly, there may be an indirect impact on compliance where alterations or upgrades by public transport users are made in response to complaints received by public transport users. Compliance with the Transport Standards is only investigated or enforced when the AHRC receives a complaint from a public transport user. As there are costs associated with making a complaint — in terms of the time involved, as well as costs associated with obtaining legal advice, or attending hearings — public transport users are unlikely to make a formal complaint unless they have some sense of how likely it is to be upheld. Reproducing the text of the relevant Australian Standards in the Transport Standards means that public transport users have easier access to compliance information.

Replicating the text of the Australian Standards in the Transport Standards, however, does not address the issue of whether or not the Australian Standards referred to are the most appropriate. For example, many of the Australian Standards referred to were drafted to deal with disability access to, and movement within buildings. The specifications for a disability toilet within a building are not appropriate for some modes of transport, such as trains or buses, because the dimensions of the toilet exceed the width of the conveyance. The same is true for the specifications for stairways on conveyances. Public transport providers can apply for exemptions — in which case people with disability do not have access to some aspects of public transport. Alternatively, providers can comply with the specifications at an unnecessarily high cost to themselves — for example, changing the rail infrastructure and the rolling stock so that trains are wide enough to accommodate disability toilets.

⁸

This estimate is provided by SAI Global, who manage the copyright for Standards Australia.

Option 2: Work with Standards Australia to develop technical standards specific to public transport

The second option is similar to the first, except that the Australian Government could establish a working group with Standards Australia to develop appropriate accessibility standards for different modes of transport. These ‘custom-built’ standards would be of the same quality as Australian Standards, and subject to the same consultative and testing process as the Australian Standards, but they would be designed for the purpose of improving the accessibility of conveyances, and would take into account the limitations of space for aspects such as stairways, toilets or storage of mobility aids. This option could therefore address other current problems with technical standards in the Transport Standards, including those set out in Table 11.2.

It is important to note that, while Standards Australia would facilitate this process (and a fee would be payable to them for this service) they would not retain copyright of the technical standards produced (these would be held by participants in the process, which would be the Commonwealth and State and Territory governments). Governments would then be able to decide the means by which the technical standards could be accessed by the public (which, this review would recommend, should be free of charge).

In essence, this option encompasses the recommendation in the Draft Report for an expert technical committee to review problems with technical standards. Working with Standards Australia to ensure technical standards are appropriate to the public transport environment will fulfil this role, as well as removing the reliance on referenced Australian Standards in the Transport Standards.

Table 11.2

REVIEW PROPOSALS FOR PARTS REQUIRING AMENDMENT

Parts	Technical issues	Recommended amendment
Part 2.1	Access paths	Amend description of an access path from unhindered to clearly defined
Part 3.2 — 3.3	The approach to a narrow passageway	Consider adding a new clause to Part 3 to require sufficient circulation to be provided at the approach to a narrow passageway within a conveyance to allow for assisted access
Part 5.1	When rest points must be provided	Remove the requirement for resting points at airports where such points would be placed in unsafe areas
Part 6.4	Prescribed slope of ramp	Further assessment needed on the safety of 1:4 ramps for assisted access (given OH&S concerns)
Part 8.5	Width of a boarding device for aircraft	Develop an alternative requirement for aircraft, taking into account the width of doors on smaller planes
Part 9.1	Minimum size for allocated space	Amend the Part to prescribe a three dimensional space requirement for the allocated space in an accessible taxi
Part 9.3	Minimum headroom targets	Amend to be consistent with Part 9.1
Part 12.5	Vertical door targets in taxis and head height along direct path of travel from door to allocated space	Amend to be consistent with Part 9.1
Part 14	Requirements for stair nosing	Remove inconsistency of requirements for stair nosing between different Australian Standards
Parts 18.1 — 18.2	Use of TGSIs	Amend to require TGSIs in internal stairs in conveyances, to improve safety
Part 18.3	Minimum luminance contrast levels for TGSIs	Amend the current requirements for colour-contrast to reflect luminous contrast standards
Part 19.1	The provision of tactile maps and audio signals as part of emergency warning systems	Insert requirement for tactile maps and audio signals for emergency procedures
Part 20.1	The specification of illumination levels for tram and train infrastructure	Adopt the requirements in the ARA temporary exemption application for both train and tram infrastructure

This option will have the following impacts on stakeholder groups:

- cost to government associated with reviewing existing standards, developing new standards, and ensuring that there is no conflict with other legislative or regulatory instruments;
- greater clarity of obligations for public transport providers;
- greater clarity of rights for public transport users; and
- greater certainty around likely outcomes of hearings.

This review considers that, on the basis of the above discussion, the preferred option to address the identified problems is option 2.

Key issue 5 — the appropriateness of the Transport Standards to address mode specific issues

Problem: The Transport Standards requirements are not sufficiently flexible to allow for different modes of transport. In particular, the Transport Standards poorly reflect accessibility outcomes for air travel.

The Transport Standards, as a single document applied across the public transport sector, struggle to pick up various mode-specific issues. In Chapter 7 of this report, examples are provided of cases where the application of particular requirements is appropriate for one mode of transport but not for others. While the Transport Standards do specify where particular requirements only apply to some, or one, mode of transport, there remain areas where requirements are not appropriate.

Options to address the problem

The Draft Report recommended that modal guidelines be developed, in the place of the current Guidelines, to provide specific direction and information on how to apply the Transport Standards by mode of transport.

Under this option, guidelines under the Transport Standards would be developed for modes of public transport, with the intention of setting more appropriate requirements by mode (where this is required). These guidelines would also address uncertainty where the Transport Standards are silent or unclear on issues that are important for a specific mode (as is the case for air travel in many instances). Where the Transport Standards specify a particular requirement, the guidelines would provide advice on how this requirement can be complied with for each mode (thereby addressing particular technical or practical issues which providers face). These guidelines would replace the current Transport Standards Guidelines, which many stakeholders considered were not sufficiently informative, or did not know existed.

This option was recommended over the options of maintaining the current Guidelines or revising the Transport Standards themselves to be modal-based. The option of modal guidelines was preferred because it involved a smaller adjustment cost for transport providers (than revisions to the Transport Standards), while still being an authoritative source for providers and people with disability.

A risk with this approach may be a loss of consistency between modes (i.e. an option for access paths for trains which is very different from that for trams or buses). This risk needs to be considered in the context of the existing inconsistencies between modes, and the inefficiencies of the current approach.

Stakeholders, in comments to the review, generally supported the proposal for modal guidelines, though with some concerns over the enforceability of the guidelines. An option to address these concerns would be to specify the role of guidelines in any complaint made. The guidelines should not differ from the Transport Standards in terms of their requirements, but rather should provide information and practical examples, in plain English on how a provider can demonstrate their compliance with the Transport Standards, and thus the DDA (which is the ultimate value of the Transport Standards). As such, the ‘enforceability’ or otherwise of guidelines is not a concern, as any requirements in the guidelines are established under the Transport Standards.

Stakeholders also wished to emphasize the need for consultation in the development of guidelines. It is proposed that modal sub-committees would include membership from:

- Industry;
- disability sector;
- the Australian Human Rights Commission;
- APTJC (one or two representatives); and
- local government (where appropriate, such as for bus infrastructure).

Where there are existing committees for trains and buses, these can be used to progress guidelines in a consistent framework.

Potential costs of the proposal for modal guidelines

There are two key potential costs of this approach for business.

- The first are costs for business of keeping informed of their legal obligations. This essentially relates to a requirement for businesses to understand laws that apply to their operations (and ensure that this knowledge is up-to-date).
- The second are costs of changes in procedures and practices as a result of any change in their obligations (or, importantly in this case, clarification of obligations).

The first set of costs are relatively straightforward, essentially the time costs of businesses reviewing documentation, understanding what the new documentation means and having certainty that they are fully informed. The nature of these costs should be the same across all affected businesses, though for small businesses it may be the owner-operator who takes the time to review the guidelines, while in larger firms it will be a legal or policy advisor who would conduct this work. The volume of the review work itself should be consistent across firms (though the potential costs of change as a result of referring to the new guidelines will differ across type and size of providers, as discussed in more detail below).

Estimated costs for industry to review the guidelines are set out in Table 11.3. These reflect the *minimum* cost to each business if new modal guidelines are introduced to replace the current Transport Standards Guidelines. These estimates are based on the assumption that not all providers will review the new guidelines (given that, for all types of regulations, there is typically a proportion of firms who choose not to be informed of their obligations). The estimate of 15 hours of review time includes time to review the guidelines themselves, as well as time to cross reference their own policies against the new guidelines.

These costs are incurred in addition to the time providers have already invested in meeting their obligations under the Transport Standards. Where providers may already invest a proportion of time each year to review their compliance with the Transport Standards, the introduction of the new guidelines could be built into this process.

Table 11.3

ESTIMATED COSTS OF REVIEWING NEW MODAL GUIDELINE DOCUMENTS

	Estimated number of providers expected to update knowledge on requirements
Bus and coach	1860
Rail and tram	13
Air travel	8
Trams	3
Ferries	8
Taxi operators	120
Total	2012
Total cost per operator (15 hours review time of Guidelines at \$35/hour)	\$525
Total cost	\$1,056,300

Note: The proportion of providers incurring these costs is based on estimates of the total number of business entities in the sector, and an assumption of the likely percentages of these that will invest time in reviewing the new guidelines.

Source: ACG Analysis

While these costs seem very low given the size of the industry, it is useful to step out these costs as the baseline costs for all providers, regardless of whether the new guidelines lead to them making any changes to practices or procedures. For some providers the new guidelines may simply confirm that their current practices are in line with requirements in the Transport Standards (and, therefore, the DDA). In this case, there would be no additional costs for those providers, though the benefit would be a greater degree of certainty that their current practice is consistent with their requirements under the Transport Standards and the DDA.

There will be a sub-set of providers that will incur additional costs where they choose to use the guidelines as a means of changing their practices or procedures. This may occur if:

- the provider had not made any changes in their operations since the introduction of the Transport Standards because they were uncertain about their obligations, and were risk averse about making new investment without certainty that the new investment was the correct way to comply with the Transport Standards; or
- the new guidelines clarify an aspect of a requirement under the Transport Standards which leads to a provider deciding to make a change in their operations (or to make sure, such as through training, that their staff understand more clearly what their obligations are).

The intention of the new guidelines is to provide further information and suggestions for providers on how to meet their obligations under the DDA — essentially the same intent of the current Transport Standards guidelines, but with a mode specific focus. They are not intended to establish *required* practice, as there would remain scope for providers to use mechanisms such as unjustifiable hardship or equivalent access where they are not in a position to implement the means of compliance described in the Transport Standards or the modal guidelines. Further, the guidelines cannot ‘override’ the Transport Standards themselves — the modal guidelines cannot set requirements which are not consistent with the Transport Standards or the DDA. The value of the guidelines is that they provide further information (on a modal basis) and a guide for providers to be able to *demonstrate* their compliance with the DDA.

A key question is therefore, if the information in the guidelines leads to a business changing their operations, processes or procedures, is the cost of this change attributable to the new modal guidelines?

Firstly, to the extent that the new guidelines trigger a change in practice by business, this is effectively a cost of the Transport Standards themselves, or in fact the DDA, as the guidelines are working to better articulate the requirements in the Transport Standards (which themselves serve the purpose of articulating how providers can comply with the DDA). Some examples illustrate this point:

- A local council has not as yet invested in new bus stop infrastructure because they are uncertain about which bus stop design would meet their obligations under the DDA, and they do not wish to invest with this uncertainty. The bus modal guidelines provide an example of a ‘compliant bus stop’ which the local council can use as a design template, thus providing an impetus for their future investment plan for bus stop upgrades. In this case, the costs of upgrading are not due to the modal guidelines, though the guidelines provided the necessary information for the investment to begin.
- As a result of examples provided in the modal guidelines, a bus operator makes changes to the format of its online timetables and updates its information at bus terminals. In this case, the obligation to provide this information rests with the Transport Standards themselves.

There are some areas where the Transport Standards (and Transport Standards' Guidelines) currently offer very minimal guidance, or are completely silent — a good example being the carriage of mobility aids on aircraft. In these instances, the modal guidelines are a good vehicle to provide mode specific guidance on obligations, which may be a simple interpretation in context. If the development of a modal guideline leads to an agreement on a specific change to the Transport Standards, this should be then progressed by government as an amendment to the Transport Standards themselves (as the guidelines cannot set obligations which are inconsistent with the Transport Standards).

The modal guidelines themselves should not impose any additional obligations on providers over and above that already in place in the Transport Standards. Therefore, any costs incurred through referral to the guidelines are essentially costs of compliance with the Transport Standards (which are costs that would have been captured in the original cost-benefit analysis of the Transport Standards).

Key issue 6 — Information on compliant mobility aids

Problem: Public transport providers are not readily able to identify which mobility aids will fit within accessible conveyances at the point of boarding. People with mobility impairment do not necessarily understand the limits on mobility aid use in public transport when purchasing a mobility aid.

Across the range of mobility aids available for purchase in Australia, only a proportion are suitable for use on public transport, primarily due to their size (i.e. they are larger than the allocated space or boarding width size specified in the Transport Standards).

Public transport providers are concerned that, while they are complying with the Transport Standards in relation to the size of ramps, width of access paths, manoeuvring areas and allocated space, these are all based on the size of a wheelchair established in the Transport Standards (based on the Australian Standard). This is one area of the Transport Standards where a performance-based approach is not appropriate. Given the large range of mobility aids currently being used, complying with an outcome-based standard would mean allowing sufficient space for the largest possible size of mobility aid (the outcome being that the conveyance or infrastructure should be designed so that mobility aids are able to fit). Equally, given the large amount of investment that has already been made on the specifications in the Transport Standards, the costs of changing the specifications in the Transport Standards would be prohibitive and inefficient.

In their comments to this review, stakeholders were very supportive of an information and education approach to addressing these problems. The most effective and efficient approach would be to introduce a program of labelling mobility aids (with a sticker) that indicates that a particular model meets the specifications under the Transport Standards (for weight, dimensions and turning capabilities). As expressed by the Bus Industry Confederation:

The bus and coach industry seeks support of State and Federal Governments to have mobility devices clearly identifiable as being able to be carried on public transport. Currently there is no requirement or mechanism for bus and coach drivers to determine which mobility devices are suitable for use on conveyances. (sub. 87, p.1)

Options to address the problem and impact

The Draft Report assessed this problem in relation to looking at gaps in information for providers in operating accessible public transport — that is, what information do providers need to have to effectively operate accessible public transport. In this context, the option of a mobility labelling scheme was assessed alongside options for promoting best practice methods through information campaigns, and a broader option of establishing a new body to coordinate a range of information and reporting mechanisms.

The Draft recommendation was for a mobility aid labelling scheme to be introduced, coordinated and funded by APTJC. This recommendation was broadly supported, though with concerns over the commitment of governments to fund the scheme, particularly given a similar scheme, progressed through the National Scooter Policy Working Group, failed because not all States and Territories were able to commit the necessary funding. As the Queensland Government noted in comments on the Draft Report:

Previously, a National Scooter Policy Working Group was convened as a sub-group. This group was chaired by Queensland with cross jurisdictional representation including a number of technical experts. The final recommendation of the group was to seek the development of a comprehensive Australian Standard for the restraint of mobility scooters in accessible vehicles and to investigate the development of a certification and labelling regime. To progress these recommendations, the group sought funding for the employment of a Research Project Officer. Contributions required from the relevant jurisdictions (including the Commonwealth Government) were approximately \$14 000 per jurisdiction. This approach was rejected due to the lack of jurisdictional funding and a strong perception that a nationally agreed outcome would never be reached on this issue. (sub. DR49, p. 8)

Additional comments on this recommendation noted that there remains uncertainty around whether particular mobility aids are safe for passengers to travel in on conveyances (i.e. the use of the mobility aid instead of a fixed seat on a train, coach, bus or taxi). These issues relate to the application of Australian Design Rules.

Notwithstanding these concerns, this review maintains its recommendation from the Draft Report that a national system of labelling for mobility aids be introduced. Commitment from the Commonwealth, State and Territory governments is essential for this initiative to progress. These issues are discussed later in this Chapter.

The main costs of administration of the scheme will be:

- developing the framework criteria for the assessment of mobility aids (that is the parameters that will be reported on the label and the form that reporting will take);
- administering the development of labels for mobility aids, which would involve receiving and processing applications for labelling from manufacturers;
- developing a label template for use by manufacturers which specifies that the compliance of the aid with specifications in the Transport Standards and the weight of the mobility aid (and therefore the proportion that the weight of the aid contributes to the overall weight limit of a boarding device). In this instance, templates for weight within 5 kilograms would be sufficient; and

- providing some resources to monitor compliance with the scheme, including a means for retailers or customers to report any problems with the scheme, or to provide information on the scheme (which could be provided with a small resource commitment within a government agency).

Costs for business of this scheme relate to:

- administrative costs in assessing a new model against the criteria for labelling, determining compliance and the information to be displayed on the label (primarily the weight of the aid); and
- the cost of the labels themselves for each new mobility aid placed for sale on the market.

Administrative costs of assessing new models for labelling

In relation to the first set of costs (administrative) the extent of costs incurred will depend on the number of new aids introduced to the Australian market in any given year. This data is not currently available from any industry source. Research on mobility aids⁹ currently sold in Australia found 13 brands of mobility aid with at least 2 types in the range sold in Australia. Of these brands, 190 different types of mobility aids are offered for sale in Australia. If it was assumed that these products represented 90 per cent of the number of types of mobility aids sold in Australia (allowing for small manufacturers), then it can be estimated that around 210 types of mobility aids are currently sold in Australia.

For a new labelling scheme to be implemented, there would need to be an implementation period where currently available models on the market in Australia would be assessed for labelling. From that point on, the assessment would be needed for each new model introduced to the market (though not all of these would be labelled).

Estimating the costs of labelling new products involves understanding the rate of new models entering the market. Given the development costs of new items (and their capital intensity), it is likely that the total stock of aids would not turn over at a great rate. Taking a range of potential new products entering the market each year:

- if 5 per cent of the market for products ‘turned over’ each year, it would involve 11¹⁰ new models being added to the market;
- if this rate were 10 per cent, there would be 21 new models on the market each year; and
- if this rate were 15 per cent, there would be 32 new models on the market each year.

These estimates need to capture both new models and updates to existing models. Even in this context, this review considers that it would be unlikely to have an annual turnover of more than 10 per cent.

⁹ For this purpose, mobility aids were considered to include manual wheelchairs, electronic wheelchairs, power wheelchairs and scooters (both three wheel and four wheel).

¹⁰ Number rounded up from 10.5 new products

On-going costs of labelling mobility aids for sale in the Australian market

Once the label template has been set up for each model, the on-going costs will be to print and fix the labels onto units for sale in the Australian market. Cost estimates for similar appliance labelling schemes put these costs as between 10 and 20 cents each time an item is labelled (Wilkenfield and Associates 2004, p77).

Unfortunately, while there is some information on the number of different types of models on the market in Australia, there is no data on the number of aids sold each year. The most comprehensive data from the ABS estimates that, in 2003, 154 000 people with disability used a manual or electric wheelchair or a mobility scooter, compared with 156 000 in 1998 (the key difference being a reduction in the use of manual wheelchairs, though there was a 77 per cent increase in the use of mobility scooters). While there are no direct sales figures available for the Australian market, the 'useful life' of these models, and the market for second hand aids, suggests that a turnover of 10 per cent of the market each year is a reasonable estimate (suggesting approximately 15 000 units sold per year). In the first year of the scheme, each type of model sold will need to have a label developed, and each unit sold will need to have a label applied to it. In subsequent years label administration costs will only apply to new models on the market, with the cost of the printing and fixing of labels to apply to all units available for sale in that year (which had not been previously labelled).

Estimates of expected total administrative and on-going labelling costs

Estimates for the establishment and on-going costs of labelling are provided in Table 11.4 below.

Table 11.4

IMPLEMENTATION COSTS — ADMINISTRATIVE

Estimates and assumptions	
Number of current mobility aids to be labelled in the implementation period.	210 (estimated)
Costs to manufacturers of understanding criteria for labelling and developing a system of relating information on their aids to the criteria for labelling.	15 manufacturers of mobility aids for the Australian market time cost of 24 hours to familiarise with labelling scheme \$12,600
Administrative costs for manufacturers of reviewing model characteristics and setting out labels for each model.	4 hours per model \$35/hr (based on average weekly earnings) \$31,500
Administrative costs for retailers to familiarise themselves with the new scheme and train staff.	220 retailers (estimated) 12 hours administrative and staff training costs \$35/hr (based on average weekly earnings) \$420 per retailer (\$92,400 total cost)
Total implementation costs	\$136,500

Sources: The estimate of the number of mobility aids sold in Australia is based on ACG research of 13 main brands of products online. Average weekly earnings data is sourced from ABS cat. No. 6360.0.

The expected annual cost of the scheme (for both new models and on-going labelling costs for existing models) are set out in Table 11.5 below.

Table 11.5

ANNUAL COSTS — ADMINISTRATIVE AND LABELLING

Estimates and assumptions	
Administrative costs of compiling information and setting out labels for new models introduced to the market	Number of new models on the market each year = 21 (estimate) Cost per model (as per estimates in Table 11.4) = \$140 Total cost = \$2730.00
Cost of labelling new units for sale	\$3000 (15,000 models @ 20 cents per label)
On-going administrative costs for the scheme — retailers	10 hours administrative work for retailers to ensure that their mobility aids are correctly labelled and address consumer enquires that relate to the labelling (based on average weekly earnings) = \$77,000
Annual compliance costs	\$82,730.00

Sources: The estimate of the number of suppliers in Australia is based on ACG research of suppliers online. There is not currently an ABS estimate of suppliers of this industry. This estimate is based on retailers who have mobility aid supply as one of their core functions of their business. Average weekly earnings data is sourced from ABS cat. No. 6360.0.

Benefits of a mobility aid labelling scheme

The key benefit of this approach would be through more accurate information for both users of mobility aids and providers and operators of public transport. This review heard from many stakeholders that there is currently insufficient information available for providers *at the point of boarding* to be able to identify whether an aid will fit within the dimensions of the access path and space allocated on a conveyance.

Benefits to people using mobility aids would include:

- better information at the point of purchase or lease of a mobility aid, will allow them to make a more informed decision about what sort of aid they should use (based on whether they wish to use the aid on public transport); and
- reduced incidence of cases where a person on a mobility aid is turned away, or has to ride in an uncomfortable or unsafe space because they were not aware that their aid was not appropriate for use. Further, labelling should give providers greater confidence that an aid is appropriate for carriage, thus reducing the cases where a person is turned away unnecessarily.

Benefits for providers and operators of public transport include:

- reduced costs from damage to conveyances which can occur when an aid is too heavy or too large to fit on a conveyance (as the label will provide the driver or other staff with information prior to them attempting to fit the aid on the conveyance); and

- benefits by providing a basis on which to negotiate access with passengers trying to board, which should improve relations with customers and reduce complaints and disagreements (though this will still occur, the information on the label will assist in setting a position from which the provider can inform passengers that they can or cannot access the conveyance).

Key issue 7 — Information on best practice and innovative applications

Problem: A lack of information sharing on best practice solutions to accessible public transport.

Problems of the sharing of best practice examples were identified by public transport providers and people with disability. Amongst these groups, there is a perception that there is currently little information sharing between jurisdictions, as well as an unwillingness to seek out solutions. Local governments also reported a desire for improved information sharing on best practice. State and Territory government departments were less concerned about this issue, perhaps reflecting their own position within APTJC, a forum which allows them to discuss implementation issues.

Options to address the problem

The Draft Report proposed the funding of a clearinghouse of best practice examples, which may include technical solutions or ways in which to provide equivalent access. This proposal was linked to the initiative for mobility aid labelling, though may or may not include this function. The proposal in the Draft Report was to have a clearinghouse based in a research body or government department, which would collect and disseminate best practice examples and ideas, both in meeting the requirements in the Transport Standards, and more generally on accessible public transport.

This proposal would involve costs for government in establishing and operating the clearinghouse function. Costs to business of participation in this initiative are expected to be very low, as it would operate on a voluntary basis. Costs would relate to submitting information or through accessing information from the clearinghouse. Business would benefit from the additional information made available through the clearinghouse.

Key issue 8 — Local government resource constraints for upgrading public transport infrastructure

Problem: Resource constraints are likely to limit the ability of local governments to upgrade public transport infrastructure within the timeframes required by the Transport Standards.

The 1999 RIS for the Transport Standards concluded that they would have a net benefit to the community — the costs of upgrading public transport conveyances, premises and infrastructure over the 30 year compliance timeframe were assessed to be outweighed by the benefits of removing discrimination. While benefits from the Transport Standards are likely to accrue to individuals over time, the costs of upgrades to public transport conveyances and infrastructure are incurred by a smaller group of public transport operators and providers and private and public providers of transport infrastructure.

Smaller public transport providers and local government are experiencing the greatest pressure on resources in meeting their obligations under the Transport Standards. The Transport Standards do have provisions for unjustifiable hardship, though the extent to which this avenue is open to providers is uncertain (as it needs to be tested in the course of a complaint).

Options to address the problem and impact

The issue of resourcing infrastructure upgrades by local governments was reported in the Draft Report, but not directly addressed in Draft Recommendations. Several stakeholders, in comments on the Draft Report, requested that the review consider this issue more directly:

The final report should also make recommendations on the funding of accessible infrastructure on a national basis, particularly where local government is finding it difficult to allocate sufficient funding. There should also be a reference to the benefits that would result from the Commonwealth taking a leadership role in addressing this issue. (subDR. 37.p.4)

Other comments on the Draft Report sought greater acknowledgement of the significant resource pressures on these parties, with the risk that milestones will not be achieved. This is particularly the case in regional and rural areas where there is a lack of existing infrastructure to support upgrades. Local councils in particular therefore face ‘steeper’ investment requirements where they are starting from a lower base of existing infrastructure (such as footpaths, roadside curbs etc).

As the Australian Local Government Association commented on the Draft Report:

Local Government considers that the good intentions of the *Disability Discrimination Act* have not been fulfilled due to the lack of resources to properly implement the requirements of the legislation and a properly structured administration process. Resources have been lacking to allow the development of clear and practical standards able to be used in the field (resulting in uncertainty), for necessary infrastructure upgrades and for the development of tools to measure progress. (sub. DR32, p.2).

In light of these issues, the review recommends that Commonwealth, State and Territory governments consider establishing a fund for infrastructure upgrades, in order to support compliance with the Transport Standards milestones. The funding of projects would be directed to those areas of greatest need, where geographical conditions increase the cost of infrastructure upgrades for local governments. This program should be supplemented with information and education programs for local councils to assist them in understanding their obligations under the DDA.

Key issue 9 — Reliance on complaints-based enforcement

Problem: Current enforcement of the Transport Standards relies on complaints being made through the AHRC by people with disability

The current complaints process has been criticised by stakeholders for its reliance on individual complaints as the main way of identifying non-compliance with the Transport Standards. With no other enforcement mechanism in place, the current approach uses the threat of a complaint as a deterrent to non-compliance. The key limitations to this approach are:

- it places a large amount of responsibility, and possible financial risk, on people with disability;

- impediments to individuals making and following through with complaints may weaken the incentive for providers to comply with the Transport Standards (using a risk management approach); and
- it focuses on individual solutions versus systemic solutions to problems.

In many ways, the problem is not so much with the role of the complaints process in managing individual complaints, but with a lack of precedent and certainty around obligations. The Transport Standards are intended to provide clarity and certainty around obligations under the DDA. Legal processes are therefore intended to be a ‘last resort option’ for a small proportion of instances. The first five years of implementation of the Transport Standards have not provided the expected level of certainty or clarity of obligations, thus placing pressure on individuals to push forward with complaints (based on their own experience) to enact broader change.

To some degree, these problems could be addressed through improved processes to clarify obligations to providers (such as through modal guidelines). There remain, however, limits to the degree to which the current complaints process can drive compliance with the Transport Standards, as discussed in Chapter 10 of this report.

Options to address the problem and impact

Option 1: Australian Human Rights Commission to have powers to initiate cases in Federal Court

One option is to broaden the role of the AHRC to be able to bring complaints before the Federal Court on behalf of public transport users. Currently, only a public transport user who believes that they have been discriminated against can bring a complaint to the Commission. In making a complaint, public transport users must report a particular instance where they believe they have been discriminated against, rather than simply reporting that the public transport provider has not complied with the Transport Standards. If no resolution is achieved through the complaints process facilitated by the Commission, the complainant may proceed to the Federal Court. Data in Chapter 10 of this report shows that only a very small proportion of unresolved complaints proceed to court. A role for the Commission in this regard would be to bring forward cases of non-compliance with the Transport Standards that may not be being progressed by individuals.

Allowing the Commission to progress unresolved complaints to the Federal Court has an obvious efficiency benefit, as there are economies of scale that can be exploited. The Commission can employ staff who have a detailed knowledge of court proceedings, the Transport Standards, and the outcomes of similar hearings — all things that are likely to be beyond the average public transport user. In order for the Commission to be able to do this, however, it would be necessary to improve the resourcing of the Commission itself. For example, in their submission to the Productivity Commission Inquiry on the DDA, the AHRC noted that:

A number of submissions support a role for HREOC itself in bringing complaints to the court as a response to this issue. It needs to be noted however that HREOC’s current budget would not permit it to risk costs in more than a small number of cases in any year, and that HREOC does not see a complaint initiation power for HREOC as substituting for effective provision for and use of complaint procedures by and on behalf of people with disabilities. A complaint initiation power for HREOC would thus not remove need for consideration of the impact of the potential for costs on the effectiveness of the legislation.

The Commission did not provide a written submission to this review, or provide written comments on the Draft Report. This review has therefore not received formal confirmation from the Commission about its willingness and capabilities to take on this role. Informal discussions with Commission staff have found support for this proposal from Graeme Innes, as noted in his public comments on the Draft Report:

I particularly welcome the recommendation that HREOC be given the power to refer cases of breaches of the Standards to the Federal Court and look forward to reading stakeholder views on this recommendation. (HREOC 2007h)

Comments on the Draft Report were split relatively evenly in their views on this proposal. Disability organisations, including Blind Citizens Australia and the Australian Federation of Disability Organisations, were supportive of the recommendation:

BCA supports this recommendation. Giving HREOC powers which are similar to those maintained by the ACCC, ACMA and ASIC would take the burden off people with disabilities to make individual complaints, and would allow disability advocacy organisations to raise more pressing issues with HREOC directly. It would also allow HREOC to bring the full force of the law against repeat offenders who may have a number of similar individual cases resolved quietly through conciliation. (sub, DR27, p.11)

Industry and State and Territory governments (who are often also service providers) expressed concerns about the impact of this proposal on the independence of the Commission in conciliation. There was further concern that this option further emphasises legal solutions to managing problems with the operation of the Transport Standards.

The potential costs and benefits of this option across stakeholders are:

- increased cost to government associated with resources for the Commission. These are estimated to be in the range of \$100,000 per year in staffing costs, with additional costs if the Commission is required to pay costs if it acts on its new powers;
- potential for reduced costs to individuals of entering or contesting complaints, though only a small proportion of cases currently go to Court;
- benefits to individuals, where outcomes of cases provide a positive outcome for them which would not have been achieved through other means (i.e. where they did not have the ability themselves to pursue legal avenues);
- costs to public transport providers who are the subject of cases pursued by the Commission;
- additional compliance costs for providers where outcomes from cases pursued by the Commission resulted in increased investment or provision of services (effectively, where compliance with obligations increases); and
- increased court costs and delays to other cases if courts are not adequately resourced.

The magnitude of these costs is highly dependent on the degree to which the Commission considers that there is a need to bring cases forward.

Option 2: Greater facilitation of representative complaints

Currently, representative complaints are allowed by the Commission and the Federal Court, though with limitations. As discussed in Chapter 10, the scope for representative complaints to the Commission is broader than that for the Federal Court, which has led to at least one case going forward to the Federal Court being dismissed on the grounds of legal standing. The Productivity Commission, in its review of the DDA, noted that:

There appears to be some confusion about the ability of disability organisations and advocacy groups to initiate representative complaints with the Human Rights and Equal Opportunity Commission and to proceed to the Federal Court or Federal Magistrates Court. This is likely to have discouraged organisations from making such complaints.

A suggestion put forward to this review, is for assistance to be provided to representative complaints through the Commission, in situations where conciliation does not produce an outcome. Such assistance could be in the form of advice on representative complaints requirements for the Federal Court, as the Public Interest Advocacy Centre (PIAC) noted in comments on the Draft Report:

While the appropriate and ideal resolution is to bring the Federal Court Rules into line with the HREOC Act, in the interim at least, a similar situation can be avoided by notification by HREOC to prospective representative complainants of what is required by the Federal Court or Federal Magistrates Court in relation to representative proceedings.

The attractiveness of this option is that it provides additional support for people with disability in making complaints, while at the same time avoiding the costs and potential risks of the Commission taking a lead role in initiating litigation. While this role may still lead to concerns over impartiality, it is more aligned with the current role for the Commission as *amicus curiae*.¹¹

Preferred approach

Of the two options assessed above, the preferred option is option 2, given the reduced costs to government and reduced risks to the impartiality of the Commission in conciliation.

Appendix G provides an assessment of the potential business compliance costs of this option. These are considered to be low to moderate in nature, particularly given the existing obligations for business to comply with the Transport Standards (that is, any additional costs through increased compliance with the Transport Standards are effectively costs of the Transport Standards themselves).

Key issue 10 — Effectiveness of governance supporting implementation of the Transport Standards

Problem: The current governance arrangements supporting the Transport Standards are not effective in managing issues arising from Transport Standards implementation

The Draft Report recommended that a revised consultative framework be agreed, reflecting the need for stronger leadership and guidance on matters relating to the Transport Standards and accessible public transport. The recommended framework involved:

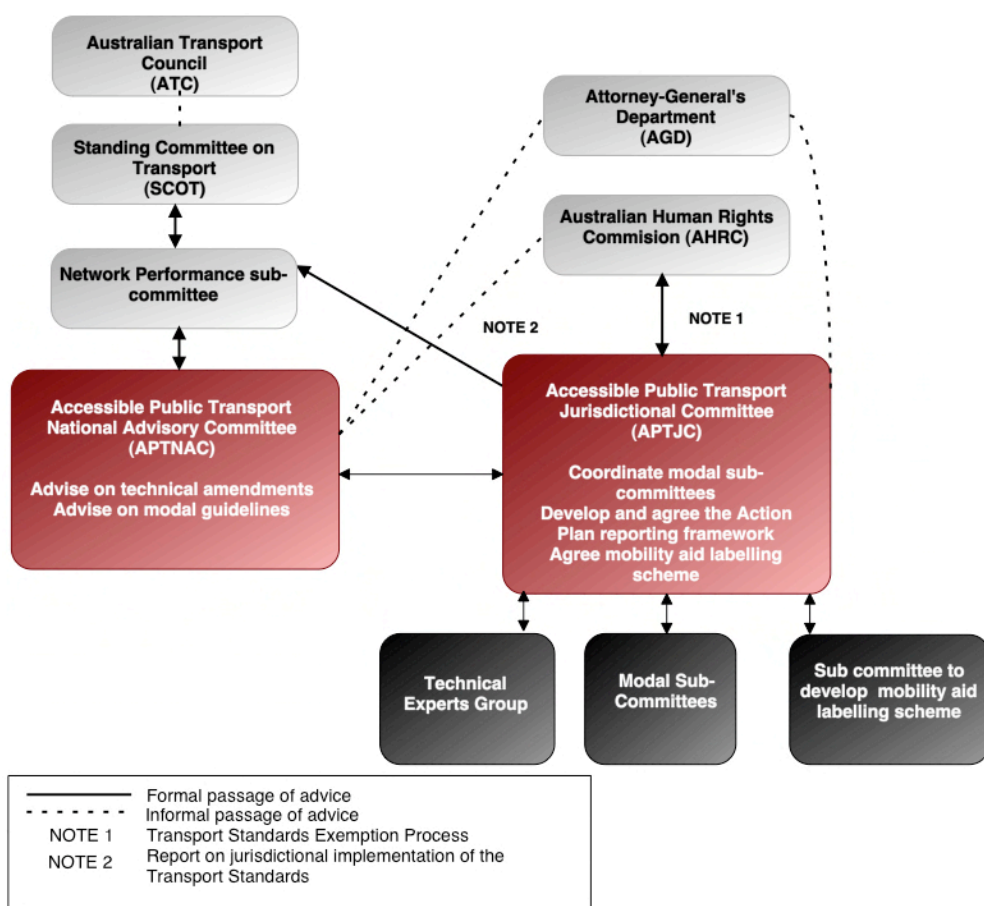
¹¹ Amicus curiae is a legal Latin phrase, literally translated as "friend of the court", that refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

- increased meeting frequency for APTNAC and APTJC, to account for the increase in activities;
- APTJC to coordinate modal sub-committees, a technical expert group and sub-committee on labelling for mobility aids;
- APTJC to report on progress of these initiatives to APTNAC, and seek advice from APTNAC on implementing these recommendations; and
- An APTJC reporting sub-committee with the task of developing a new reporting framework.

Figure 11.1 provides an illustration of this recommended framework (reflecting the new ATC/SCOT sub-committee structure).

Figure 11.1

PROPOSED CONSULTATIVE FRAMEWORK FOR ACCESSIBLE TRANSPORT



Source: Australian Government Department of Infrastructure, Transport, Regional Development and Local Government

Comments on the Draft Report raised concerns about the role of APTJC in this model, particularly whether APTNAC, as a committee with industry and disability sector membership, would have sufficient input into decisions. The low level of confidence in the effectiveness of APTNAC and APTJC to date also made some stakeholders question why these bodies should have a role in the revised framework at all (including some organisations with membership on these bodies).

Many comments received did not recognise the requirement for APTJC to work with APTNAC on key matters, which was specified in the Draft Report. Several proposed that APTNAC have a greater role, though others expressed doubts about the capacity of APTNAC.

Options to address the problem

There are essentially three options in addressing these issues.

Option 1: APTJC responsibility, in consultation with APTNAC

Under this option, APTJC would be tasked with responsibility for establishing and resourcing the various necessary small groups and committees required to progress recommendations from this review. APTJC would be required to report to APTNAC on progress, and committee reports could also be provided directly to APTNAC for comment. This is essentially the recommended model from the Draft Report. The benefits of this approach are that the responsibility for management and coordination is placed with a small committee with responsibility for resourcing. Governance and administrative processes are therefore more straightforward. Increased meeting frequency for APTNAC would mean that input and communication with this group would be improved from the current arrangement. It is likely that most APTNAC members would also contribute to modal sub-committees and provide technical advice on standards, meaning that they would not be excluded from these processes, but would not have management or coordination responsibility for them.

Option 2: APTNAC responsibility for managing administration of the Transport Standards

Under this model, the processes and structures described above would apply, but with responsibility placed with APTNAC rather than APTJC. The advantage of this model is that APTNAC has a broader membership and thus there would be greater involvement from industry and disability sector representatives. This option was considered at the Draft Report stage, but ultimately discounted because:

- APTNAC has an advisory function rather than an administrative or coordination function. The size of the committee does not lend itself to these roles;
- non-government members of APTNAC are unlikely to be in a position to commit the necessary time into performing advisory and administrative functions;
- APTNAC has no direct resourcing capabilities, meaning that any resourcing decisions would need to be managed through APTJC; and
- to date APTNAC has not proven itself to be a forum where timely decisions can be made.

Option 3: Establish a new body to manage and administer the Transport Standards

A third option considered was the establishment of a new body to coordinate initiatives. The advantage of this approach is that it would avoid the current poor perceptions about APTNAC and APTJC. In reality, however, membership of any new body would likely include the majority of current members of APTNAC (government, industry, disability sector, the AHRC), as these are the key stakeholders who need to be included. Creating any new body would therefore, incur costs for little gain.

Preferred approach

On the basis of the above discussion, this review considers that the framework presented in the Draft Report represents the best model, which is represented by Option 1 above. The effectiveness of the approach will rely on funding commitments from governments to ensure that new committees are well resourced. As noted in Chapter 5 of this report, a modal sub-committee of the type envisaged in the Figure 11.1 (the Aviation Access Working Group) has already been established for the aviation sector.

In implementing the model, it will be important to consider the logistics of meeting frequency to ensure that stakeholder groups are not over-burdened with demands on their time to attend meetings (i.e. where stakeholders may be members of a modal sub-committee and APTNAC, and for government representatives which may be on three committees).

11.3 Summary of preferred options addressing systemic issues

Table 11.6 sets out the preferred options to address the ten systemic issues identified in this report.

Table 11.6

KEY ISSUES AND PROBLEMS IDENTIFIED IN REVIEW ANALYSIS

Key issues/problems identified	Recommended action
1. There is a lack of data to assess progress against the Transport Standards	Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government
2. There is a lack of data on patronage of public transport by people with disability	Request the ABS include questions on public transport patronage in their Disability surveys
3. Referencing of Australian Standards in the Transport Standards limits the ability of people with disability to understand required outcomes from the Transport Standards	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 in the Transport Standards, and made available for public use
4. Some references to Australian Standards are inappropriate for conveyances or transport infrastructure	As above
5. The Transport Standards do not provide sufficient flexibility to accommodate specific characteristics of modes of transport	Mode specific guidelines be developed by modal sub-committee. These guidelines would be a recognised authoritative source for providers which can be used during a complaints process
6. There are barriers to operators and people with disability in identifying compliant mobility aids	A mobility labelling scheme be developed which identifies the weight of the aid and whether its dimension fit within the dimensions for allocated spaces, boarding devices, access paths and manoeuvring areas on conveyances, as specified in the Transport Standards
7. There is insufficient information sharing on best practice examples of accessible public transport	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 public transport
8. The costs of upgrades in rural and regional areas have the potential to delay or impede compliance with the Transport Standards	Commonwealth, State and Territory government provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure
9. Compliance relies on complaints by people with disability	The AHRC provide greater support for representative complaints, reducing the cost burden on individuals
10. Current governance arrangements do not provide sufficient mechanisms to address problems with the Transport Standards	APTJC responsibility for new governance and accountability arrangements, in partnership with APTNAC

11.4 Mode specific issues**1. Trams — future compliance targets**

Problem: forward compliance targets incompatible with vehicle replacement cycles

The Transport Standards set a compliance timetable for trams which requires:

- 90 per cent of conveyances to be compliant by 2017 (the 15-year milestone); and
- 100 per cent of conveyances to be compliant by 2032 (the final milestone).

The Victorian government requested, in comments to the Draft report, that the reasonableness of this timeframe be re-considered. The issue was originally raised in the Victorian government's full submission to this review:

There is a significant mis-match between the milestones for trains and trams (30 years) and related infrastructure (20 years) which may prove unworkable, particularly for tram services. The milestones require a heavily weighted replacement rate for trains and trams, by providing 15 years to replace 90% of vehicles and another 15 years to replace the last 10% of vehicles. This does not fit comfortably with vehicle replacement programs or cycles. While this is not a significant issue for trains in Victoria (which are already virtually fully compliant), in the case of trams, older rolling stock cannot be retro-fitted. A more even roll out of replacement vehicles across the 30 years could be considered, whilst achieving the same final result of full compliance by 2032. This could also achieve better integrated outcomes between vehicles and infrastructure, towards the later milestones, provided that it is progressed in consultation with people with disabilities. (sub71, p.12)

And raised further in their response to the Draft Report:

... the timeframes for compliance (should) be reviewed in relation to trams (should provide a more even roll-out for the replacement of conveyances through the middle milestones of 55% by 2012 and 90% by 2017 across the thirty years to 2032. The end result would be the same yet would reflect government funding cycles under value for money principles. (subDR.54, p.7)

The request is essentially to 'smooth' out the compliance timeframe to reduce costs of replacement of conveyances, with the ultimate milestone remaining unchanged.

Options to address the problem

There are two feasible options to address the problem:

1. Maintain the current timeframe in the Transport Standards (status quo option).
2. Adjust the compliance milestones to 'smooth' the timeframe, which would involve a small reduction in the 2017 target for tram compliance.

As argued by the Victorian government, upgrades of trams rely entirely on turnover of old stock for new stock because they are unable to be retrofitted. Unlike trains, access cannot be provided through direct assistance (where ramps are provided by staff). This suggests that a timeframe based on vehicle replacement schedules is more appropriate for this conveyance over others. It is likely that maintaining the current timeframes will lead to a period where vehicle replacement rates lag behind the Transport Standards targets. A smoothing of the compliance timeframe in this instance has merit, with a marginal change to the 2017 target from 90 per cent to 80 per cent.

The impact of Option 2 would be reduced uncertainty for tram providers and government in the management of their Transport Standards obligation. It is unlikely that this change will lead to an actual reduction in accessible outcomes in the future, as the timeframe set in the Transport Standards was unlikely to have been met (in the period from 2017 to 2032).

2. Taxis — compliance target

Problem: unachievable compliance target

The Transport Standards require that response times for WATs be the same as for other taxis by the first five year milestone (31 December 2007). The taxi industry reports significant difficulty in complying with this target. As explained by the Australian Taxi Industry Association:

Taxi networks / cooperatives facilitate rather than control the delivery of taxi services. They are in no position to guarantee to every customer requesting a WAT that it will arrive with the same response time as another type of affiliated taxi. Using their best endeavours over the past 5 years to implement improvements to their dispatching procedures and systems, taxi networks / cooperatives have found that it is impossible to always achieve on-demand response times for WATs equal to (their) other taxis as required under the DSAPT. Of huge concern to the ATIA, where WAT response times turn out to be longer than other taxi response times, investigation has not shown the cause to be some discriminatory action / inaction on the part of the taxi network / cooperative. (sub. 15, p.11)

The Draft Report did not make a specific recommendation on the compliance target for taxis. Comments on the Draft Report for this review sought further consideration of the feasibility of this compliance target for taxis, and whether this should be amended. The current target, to be achieved, requires a significant proportion of the taxi fleet to be WATs. The concern expressed by both industry and some State governments is that the required investment to meet this milestone is significant for the first five years of the Transport Standards. Where other modes of transport have milestones set to reflect vehicle upgrades and replacement schedules, the same provisions have not been afforded to the taxi industry. The result is a target which is effectively unachievable in the short term without significant investment, and reliant on new entrants into the industry (which is not currently realistic in many States and Territories, with WAT licences not fully subscribed).

A further issue is the use of response times as the measure of compliance. There are two key problems with this approach:

- response times are not systematically measured, and therefore it is very difficult to determine whether services are compliant or not (as discussed in Chapter 4 of this report); and
- the responsibility for response times rests with taxi network operators, who argue that they are not able to influence vehicle response times.

Options to address the problem

The most feasible options to address this problem are:

1. Maintain the current milestone of compliance from 31 December 2007 (status quo option).
2. Replace the 31 December 2007 milestone with a staged implementation timeframe in line with that for other modes of transport.

The second option would involve setting a 2012 milestone for taxi response times at a level consistent with requirements for other modes of transport at the point (which would be in the range of 55 per cent compliance if consistent with bus sector compliance requirements for example), with increased targets for 2017 and 2022. In making these changes, consideration should also be given to whether the measure of response time is the best measure. In comments to this review, while many stakeholders criticised this target, no other reasonable suggestions were made. An alternative option may be to set a proportion of total fleet within a particular region. The attractiveness of this option is that there is significantly better data on fleet size than response times.

Providing an incremental compliance target for taxis will benefit taxi providers the majority of whom are currently not compliant with the Transport Standards, and therefore are at risk for a complaint being made against them. This change should not have a significant impact on accessibility outcomes for people with disability because:

- current accessibility (based on available evidence) does not meet the current milestone (therefore lowering this target will not reduce service levels); and
- complaints on the basis of response times are currently very difficult to progress, given the lack of data and difficulties in proving that response times are lower for a particular individual at a particular time. This makes proving non-compliance under the current framework very difficult. Indeed, a move away from the current approach of using response times to measure non-compliance is likely to benefit people with disability, as the current measure is not readily observable (and thus difficult to prove discrimination against).

The new milestones, and performance measures, should be developed by the taxi modal sub-committee, as part of their work on developing modal guidelines for taxis. Through this process, both the taxi industry and disability representatives will have input into the final targets and measures.

3. Buses, coaches and taxis — safety of travel in mobility aids

Problem: There is a lack of guidance for people with disability and public transport providers on the safety of mobility aids to be used as seating for passengers when travelling in a bus, coach or taxi (including a lack of information on the need for restraints)

Currently there are no safety standards that specifically test whether a mobility aid is safe for a passenger to travel in, in a moving vehicle. Further, there are no specific safety requirements in an ADR or an Australia Standard that specify how a mobility aid (or passenger in a mobility aid) should be restrained in a conveyance.

The Bus Industry Confederation (sub. 87, p. 3) and the Bus and Coach Association of New South Wales (sub. 73, p. 3) consider that wheelchairs and other mobility devices do not provide equivalent seat strength or anchorage stability as prescribed for fixed seating in ADR 68. As such, they consider that passengers being carried on a bus in a mobility device are receiving a lower standard of safety, which may increase their risk of legal liability in the event of an accident. Further, as mobility aids do not provide equivalent anchorage to fixed seating, the safety of other passengers may also be at risk in the case of an accident or sudden braking and swerving.

As the Bus Industry Confederation reported in their initial submission to this review:

The Bus Industry Confederation is concerned that wheelchairs and other mobility devices do not meet any equivalent seat strength or anchorage standard and the actual restraint of such devices to the ADR 68/00 standards is physically impossible. In addition mobility devices vary in their stability and are often at risk of being tipped over, even when restraints either active or passive are applied. It is clear that people with disabilities being carried on a bus or coach in a mobility device are receiving a lower standard of occupant safety compared to other passengers in ADR 68/00 seats which raises a number of legal and safety issues. (sub 87, p.2)

The same issue arises for taxis, where there is currently no guidance on which mobility aids are safe to ride in, and which require a passenger to transfer into a fixed seat. Further, not all people are able to transfer into a fixed seat (or cannot without significant assistance), meaning that their only option is to ride in their mobility aid (which may or may not be at the standard for fixed seating set in the Australian Design Rules).

Options to address the problem

A long term option to address this problem, is to develop an Australian Standard for mobility aids which establishes the design and restraints requirements for mobility aids which are used as seating in transport conveyances (similar to that for child safety seats). To achieve this, however, the first step is to determine the level of risk to safety through current practice, and determine whether a standard is needed (or whether a less stringent approach may be more appropriate). This review therefore recommends that government commission research into the safety of mobility aids when used as seating in a bus, coach or taxi. This research should recommend whether a Standard is needed, and the extent to which current practice is safe.

5. Buses and coaches — community transport

Problem: exclusion of community transport from the Transport Standards

The current exclusion of community transport from the Transport Standards is counter to the function of community transport within society, particularly for services provided for older people and people with disability. For example, there is no requirement for a community transport bus to be accessible, even if the targeted group that it is servicing does, or is likely to, include people with disability.

While there are cases where this is appropriate, the current definition implies that even if the ‘target group’ is defined by a disability, the Transport Standards do not apply. This is an outcome that lacks consistency with the aim of the Transport Standards and limits the effectiveness of the Transport Standards to remove discrimination for people with disability.

Options to address the problem

The Draft Report sought comment from stakeholders on the option of removing the exclusion for community transport from the Transport Standards, where the purpose of the service is to support people with disability or the elderly.

Comments on this option suggested that, while reasonable on equity grounds, the costs of upgrading conveyances would be prohibitive for many providers of these services. Such costs may lead to withdrawal of services. Several stakeholders, including Blind Citizens Australia and the NSW Government, proposed that the Transport Standards be applied to new stock for community transport. A further suggestion was to apply requirements to transport with a capacity over eight seats, to avoid capturing volunteers' own transport in the regulations.

There has been some progress on this issue through other policies. The National Program Guidelines for the Home and Community Care Program released in 2007 state, 'all HACC facilities (such as day care centres and transport vehicles owned by HACC services with a capacity of greater than eight people) should be accessible to people with physical or sensory disabilities'.

In light of this evidence and comments, the review proposes that a requirement be included in the Transport Standards for all new community transport stock to comply with the Transport Standards, where the purpose is for disability or elderly support services. This requirement would apply to vehicles larger than twelve seat capacity.

The potential costs of this proposal include:

- higher costs for upgrades of stock, though this will reduce over time as accessible stock makes up a larger proportion of the fleet sold; and
- costs for providers in understanding their obligations under the Transport Standards.

The costs of this option are set out in the Table below. The estimates are based on a start date of 2017 and a phased implementation to 2032. The estimates are based on the following.

- The cost 'premium' of an accessible bus of \$10,000 in 2017, decreasing to \$6,000 in 2032.
- A total fleet size of vehicles, based on estimates of community buses by local government area in the time period assessed (as these vehicles are typically owned by local councils or State governments). The estimates assume that 100 per cent of urban local councils and 75 per cent of rural and regional councils have some form of community bus service. Of these, rural councils have one vehicle above the threshold size and urban councils (on average) own two vehicles.
- A turnover age of 12 years (based on estimate age for all bus services).

The Table below shows the potential total cost of this option as \$4.2 million (Net Present Value in 2012).

Table 11.7

COSTS OF PROPOSED PHASED TIMEFRAME FOR REMOVAL OF EXCLUSIONS FOR COMMUNITY TRANSPORT

	2017	2022	2027	2032
Compliance requirement in the Transport Standards	25% of buses purchased after 2012	50% of buses purchased after 2012	75% of buses purchased after 2012	100% of buses purchased after 2012
Estimated Number of vehicles required to upgrade in each period	240	240	240	240
Additional cost of accessible bus (compared with standard bus)	\$10,000	\$8,000	\$7,000	\$6,000
Total cost of upgrading to accessible bus (over and above the cost of replacing with a standard bus)	\$2.4million	\$1.92million	\$1.68million	\$1.44million
Total cost (NPV) in 2012	\$4.2 million			

Note: Discount rate of 5 per cent used for Net Present Value calculation.

Source: ACG analysis based on price, fleet size and age data sourced from submissions and State and Territory governments

The estimates provided above are considered to be the *least cost* approach to including community transport in the Transport Standards. The costs are significantly reduced from those first estimated in the 1999 RIS because:

- the compliance timeframe is more gradual, as it would not require buses to be retrofitted, but rather only require providers to ‘trade up’ to an accessible model at the time when they replace their vehicles (when they reach the end of their economic life); and
- the costs of this ‘trade up’ will reduce over time as accessible vehicles comprise a large proportion of the market.

The benefits of the proposal include increased access for people with disability, with the flow-on benefits of improved social interaction, education opportunities and improved well-being. This proposal also provides greater access for people with mobility impairment to the community services and activities that are commonly accessed through community transport. This review considers that a phased introduction of standards which allow for mobility impaired members of the community to access these services presents a least cost approach which is likely to be exceeded by the broader community benefits of access to services.

6. Buses and coaches — dedicated school bus services

Problem: Impact of exclusion of dedicated school buses from physical access parts of the Transport Standards

Chapter 9 provides a detailed discussion on the impacts of the exclusions for dedicated school bus services, identifying that they:

- negatively impact on access to transport for students with a disability (primarily those with a mobility impairment);
- negatively impact on the availability of taxi services in regional areas; and
- are likely to reduce availability of the school bus service as a general access service (i.e. school buses may not be allowed to carry general access passengers because they do not meet the Transport Standards).

While the exclusion clearly runs counter to the intention of the Transport Standards, the costs of removing the exclusions may be such that removal cannot be justified.

Options to address the problem and impact

Stakeholder comments on the potential removal of the exclusion were divided. Industry and State and Territory governments are strongly opposed to the removal of the exemption on the basis of the costs to providers. Disability organisations support the removal of the exemption on the grounds that the exemption constitutes discrimination.

This review acknowledges the significant costs of the *immediate* removal of the exemption, as presented in Chapter 9 of this report. These relate primarily to:

- the cost of upgrading current vehicles to be accessible for people with mobility impairment, estimated to be:
 - \$30,000 for a light vehicle (sub. DR49)
 - \$40,000 for a heavy vehicle (sub. DR49)
 - \$60,000 for a coach (to fit a ‘lift’ in a coach) (Canberra public hearing transcript, p.15)
- the incremental cost ‘premium’ of purchasing a new low floor accessible bus compared with the cost of a new ‘standard’ bus (estimate to be a maximum of \$100,000).

These costs will be greatest where upgrades are required within a short space of time, or where new vehicles which cannot be retrofitted need to be replaced before the end of their economic life (in this context, this is considered as the period in which the bus fits within the fleet age requirements for school bus contracts).

The commitment in the original development of the Transport Standards, and in the Regulation Impact Statement for the Transport Standards, was to further investigate the inclusion of school bus services into the Transport Standards at a later date, or other options that may improve accessibility of school bus services for students with disability. To date, no further progress has been made against this objective, though this review considers that it would be valuable to consider developing a timeframe for the future inclusion of dedicated school bus services (and investigating what future timeframe would be most appropriate on cost-benefit grounds). The RIS for the Transport Standards flagged this delayed approach as an option for government in addressing this issue, canvassing an option where:

provision in the draft standards for a longer target date for implementation by dedicated school bus operators, enabling them to move to accessible vehicles in the second replacement cycle rather than the first; (this would require them to be accessible within approximately 30 years).

This suggestion in the Transport Standards RIS reflects a potential option to reduce the overall cost impact of removing the exclusion by extending the timeframe for compliance beyond those requirements in the Transport Standards for route bus services and coaches. This approach would reduce costs because:

- it would effectively remove any costs of upgrading or retrofitting existing vehicles because the timeframes would be such that providers would have sufficient forward planning time to purchase an accessible vehicle once their current stock has reached the end of its ‘economic life’; and
- it enables the first ‘wave’ of second hand low floor vehicles currently being purchased for route services to be available for dedicated school bus providers, which would lower the ‘premium’ on low floor buses that currently exists in the second hand bus market (which stakeholders report is driven by a very small supply of these types of buses in the second hand market).

The cost of removing the exclusion for school bus services can be minimised where the school bus fleet can be replaced at ‘end of life’. State and Territory Governments usually include a maximum and average age for bus fleets within service contracts. Different jurisdictions have different requirements regarding the age of their school and public transport service bus fleets (information from jurisdictions places this age between 12 and 22 years). These differing requirements (and the replacement of buses used for route services) result in a supply of less expensive, second-hand low floor buses that are frequently employed as school buses in rural and regional areas.

Removing the current exclusions for dedicated school bus services will impose costs on providers, but there are options to minimise these costs through a gradual timeframe for implementation.

The least cost approach to removal of the exclusions would be for providers to be able to fully capture the full economic life of the assets they hold at the time of notification of any change to the requirements in the Transport Standards. In this analysis, the notification date is assumed to be 2012, given the required time for amendments of the Transport Standard to be implemented, and the consistency of this being timed with the next scheduled review of the Transport Standards.

Based on State and Territory data the median maximum vehicle age in a school bus fleet is 17 years, meaning that an implementation start date of 2029 would allow for a new vehicle purchased at the time of the change in the Transport Standards to be fully utilised for its contract term (its ‘economic life’ as a school bus).

Data collected from State and Territory governments indicates that an average age for a route service fleet is around 12 years, suggesting that the first ‘tranche’ of vehicles purchased to comply with the 2007 requirements of the Transport Standards will be entering the second hand market by 2019, which will have the effect of reducing the ‘premium’ on low floor vehicles which stakeholders report currently exists in both the new and second hand market. By 2034 (12 years following full compliance requirements in the Transport Standards for buses), the majority of buses entering the second hand market will be vehicles that were required to be compliant with the Transport Standards (this cannot be assumed to be 100 per cent given provisions for unjustifiable hardship and other provisions in the Transport Standards which mean 100 per cent compliance cannot be assumed).

The costs of this option are set out in the Table below. The estimates are based on a start date of 2029 and a phased implementation to 2044. The estimates are based on:

- The cost ‘premium’ of a low floor bus reducing over time with more of these vehicles entering the market as a result of requirements on route buses under the Transport Standards. It is estimated that this premium decreases from \$80,000 in 2007 to \$10,000 in 2034 (where it remains constant, reflecting the potential that the inclusion of these buses in the second hand market has a price inflation impact).
- A total fleet size of 7200 vehicles, based on data provided by Queensland, Victoria and New South Wales, scaled to a national estimate, and assuming a 10 per cent growth in total vehicles in the period assessed.

The Table below shows the potential total cost of this option as \$31 million (Net Present Value in 2012).

Table 11.8

COSTS OF PROPOSED PHASED TIMEFRAME FOR REMOVAL OF EXCLUSIONS FOR DEDICATED SCHOOL BUS SERVICES

	2029	2034	2039	2044
Compliance requirement in the Transport Standards	25%	50%	75%	100%
Number of vehicles required to upgrade in each period	1800	1800	1800	1800
Additional cost of accessible bus (compared with standard bus)	\$22,962	\$10,000	\$10,000	\$10,000
Total cost of upgrading to accessible bus (over and above the cost of replacing with a standard bus)	\$41.3 million	\$18 million	\$18 million	\$18 million
Total cost (NPV) in 2012	\$31.2 million			

Note: Discount rate of 5 per cent used for Net Present Value calculation.

Source: ACG analysis based on price, fleet size and age data sourced from submissions and State and Territory governments

The estimates provided above are considered to be the *least cost* approach to including dedicated school bus services in the Transport Standards. The costs are significantly reduced from those first estimated in the 1999 RIS because:

- the compliance timeframe is more gradual, as it would not require buses to be retrofitted, but rather only require providers to ‘trade up’ to an accessible model at the time when they replace their vehicles (when they reach the end of their economic life); and
- the costs of this ‘trade up’ are lower than would be case if the requirement were introduced immediately because the availability of second hand route buses for use as school buses will reduce the cost premium on these models.

The potential benefits of this option are difficult to measure, primarily because, given the long lead time of these requirements, it would require an estimate of the population of students requiring this access from 2029 onwards. It is important to note the potential benefits of this access not just in terms of the number of students, but the length of time that this access will be provided (potentially 12 years per student) and the avoided costs for families of having a directly accessible service.

7. Air travel — application of conditions on air travel

Problem: Transport Standards lack guidance on the application of conditions on air travel

There are two important areas where, with the Transport Standards providing no guidance, airlines have developed their own policies for people with disability:

- carriage of mobility aids; and
- independent travel criteria.

These issues are discussed in detail in Chapters 5 and 9 of this report. Reported difficulties experienced by people with disability when travelling by air reflect the uncertainty of obligations and rights for the two aspects noted above. The application of independent travel criteria has resulted in some people with disability being required to travel with a carer. The Transport Standards currently provide no guidance on whether the application of these criteria constitutes discrimination under the DDA.

Options to address the problem

There are two key issues that need to be resolved. The first is to agree to a consistent approach for the carriage of mobility aids, which can be included in the modal guidelines. Agreeing to this guideline would be a task for the modal sub committee. It would take into account the current policies and seek to agree to a consistent service approach. This proposal would greatly increase certainty for people with disability in air travel. These requirements would need to be specified by aircraft size.

Table 11.9

POTENTIAL BUSINESS COMPLIANCE COSTS

Types of costs	Relevance	Scale of likely compliance costs
Reporting	No	
Keeping informed of obligations	Yes	Airlines would need to update staff and information sources (i.e. websites) with information on new procedures
Seeking permission	No	
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Yes	Moving to a guideline for the carriage of mobility aids will impact on airline practices. The extent to which this occurs will vary across carriers, depending on their current practices

The second issue — independent travel criteria — is more complex, and is likely to rely on a determination from the Federal Court. Prior to this decision, this review cannot pre-empt the decision, though would recommend that following a Federal Court decision, the basis of the decision be included in modal guidelines.

11.5 Summary of preferred options addressing mode specific issues

Table 11.10 provides the set of preferred options to address mode specific issues identified by this review.

Table 11.10

KEY ISSUES AND PROBLEMS IDENTIFIED IN REVIEW ANALYSIS – MODE SPECIFIC ISSUES

Key problems identified	Preferred option to address the problem
1. Trams — future compliance targets in 2017 and 2022 do not reflect vehicle replacement schedules	The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent 80 per cent to better reflect vehicle replacement cycles
2. Taxis — current compliance target does not allow for staged implementation. Measure used is difficult to observe for compliance purposes	The 2007 milestone for WAT compliance with the Transport Standards be replaced with a staged implementation timeframe, similar to that for other modes of transport
3. Buses, coaches and taxis — uncertainty around safety of seating in mobility aids in buses, coaches and taxis	Government should 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
4. Buses and Coaches — exclusions that apply to community transport vehicles limit current and future provision of services for people with disability	Requirements for accessibility of new community transport vehicles greater than 12 seat capacity in place from 2017
5. Buses and Coaches — exclusions that apply to dedicated school buses limit current and future provision of services for students with disability	Exclusions for dedicated school bus services be phased out starting in 2029, reflecting replacement cycles for route and school bus vehicles
6. Air travel — no guidance in the Transport Standards of what are appropriate conditions of air travel	Air travel modal sub-committee (the Aviation Access Working Group) be tasked to develop guidance on the carriage of mobility aids on aircraft

Chapter 12

Recommendations

Recommendation 1:

Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government

Recommendation 2:

Request the ABS to include questions on public transport patronage in their Disability surveys

Recommendation 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 in the Transport Standards, and made available for public use

Recommendation 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

Recommendation 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

Recommendation 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 public transport

Recommendation 7:

Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure

Recommendation 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

Recommendation 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

Recommendation 10:

The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent to 80 per cent to better reflect vehicle replacement cycles.

Recommendation 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.

Recommendation 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.

Recommendation 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).

Recommendation 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.

Recommendation 15:

Air travel modal sub-committee (the Aviation Access Working Group) be tasked to develop guidance on the carriage of mobility aids on aircraft.

In addition to these recommendations, Appendix E provides findings and recommendations that pertain to each Part of the Transport Standards.

Appendix A

Review Terms of Reference

Background

1. The *Disability Discrimination Act 1992* seeks to eliminate discrimination, as far as possible, against people with disability. Section 31 of the Act states that the Minister may formulate standards in relation to specified activities, including the provision of public transport services and facilities.
2. Division 1.2 of the *Disability Standards for Accessible Public Transport 2002* (the Transport Standards), which took effect on 23 October 2002, states that their purpose is to enable public transport operators and providers to remove discrimination from public transport services. Part 34 requires the Minister for Transport and Regional Services, in consultation with the Attorney-General, to review the efficiency and effectiveness of the Transport Standards within five years of their taking effect, with subsequent reviews every five years.
3. This review (the Review) will be undertaken by a consultant engaged by the Department of Transport and Regional Services. It will be oversighted by a Steering Committee comprising officers of the Department of Transport and Regional Services and the Attorney-General's Department. The consultant will provide a final written report by 23 October 2007 for consideration by the Minister for Transport and Regional Services in consultation with the Attorney-General.

Scope

4. The Review will review the efficiency and effectiveness of the Transport Standards and will:
 - a) Assess whether discrimination has been removed, as far as possible, according to the requirements for compliance set out in Schedule 1 of the Transport Standards.
 - b) Assess the need for any amendments to the Transport Standards.
 - c) Make recommendations for any necessary amendments to the Transport Standards.
5. The Review will be consistent with the Australian Government's Regulation Impact Statement (RIS) framework as outlined in the *Best Practice Regulation Handbook*.
6. In reviewing the efficiency and effectiveness of the Transport Standards, the Review will, among other things:
 - a) Consider the adequacy of the current structure and processes as well as the suitability of other approaches (such as outcomes-based regulation, co-regulatory approaches, action plans and compliance reporting) in achieving the purpose of the Transport Standards.
 - b) Assess the impact of the current incorporation of references to the Australian Standards, the Australian/New Zealand Standards and the Australian Design Rules in the Transport Standards.
 - c) Provide an assessment for each Part of the Transport Standards.

- d) Assess the extent to which unjustifiable hardship or equivalent access provisions are being utilised by service providers and/or operators.
 - e) Take into account the issues of promoting national consistency, efficient regulatory administration and compliance.
7. In assessing whether discrimination has been removed as far as possible, the Review will, among other things:
- a) Concentrate on compliance requirements at the initial 31 December 2007 target date for compliance (Schedule 1 Part 1 of the Transport Standards).
 - b) Collect and analyse the available data and other information on compliance.
 - c) Assess the scope and value of current compliance information and consider any implications for the assessment of whether discrimination has been removed.
8. In assessing and recommending necessary amendments to the Transport Standards, the Review will, among other things:
- a) Identify amendments for each Part of the Transport Standards.
 - b) Identify costs and benefits to stakeholders.
 - c) Take into account the issues of promoting national consistency, efficient regulatory administration and compliance.
9. As the *Disability Standards for Accessible Public Transport Guidelines 2004 (No.3)* (the Guidelines) have been designed to accompany the Transport Standards as a tool for interpreting the content of the Standards, the Review will include appropriate recommendations for amendments to the Guidelines.

Considerations

10. In undertaking the Review, the consultant will:
- a) Advertise nationally and consult with all levels of government and affected parties (in particular people with disability and their representatives, community interest groups and industry).
 - b) Invite submissions from stakeholders and make submissions publicly available as they are received by the consultant.
 - c) Facilitate participation by people with disability by ensuring that any meeting for the purpose of the Review is held at an accessible venue and that documentation and information distributed during the Review are available in alternative formats.
 - d) Prepare a list of stakeholders consulted, for inclusion in the final written report.
11. The Review will draw on any relevant background material, including:
- *Disability Discrimination Act 1992*;
 - *Disability Standards for Accessible Public Transport 2002*;
 - *Technical Review on Disability Standards for Accessible Public Transport 2002*;
 - Productivity Commission Inquiry Report No 30, *Review of the Disability Discrimination Act 1992* and the Australian Government response;
 - Applications for temporary exemptions under the Transport Standards and responses by the Human Rights and Equal Opportunity Commission, the Accessible Public Transport Jurisdictional Committee and other relevant parties;

- Web sites operated by the Attorney-General's Department (http://www.ag.gov.au/www/agd/agd.nsf/Page/Humanrightsandanti-discrimination_DisabilityStandardsforAccessiblePublicTransport) and the Human Rights and Equal Opportunity Commission (http://www.hreoc.gov.au/disability_rights/index.html#information);
- Web site operated by the Office of Best Practice Regulation (<http://www.pc.gov.au/orr/index.html>); and
- Public transport operator and provider compliance information.

Appendix B

Review method

B.1 Stage one: confirming the review terms of reference and literature review

Confirming project terms of reference

The initial task in the project was for the Allen Consulting Group to meet with representatives of the Australian Government Department of Infrastructure, Transport, Regional Development and Local Government (the Department of Infrastructure) — previously the Australian Government Department of Transport and Regional Services (DOTARS) — and the Australian Government Attorney-General's Department to be briefed on the project terms of reference. This meeting took place in May 2007 and the project terms of reference presented in Appendix A were confirmed.

The review terms of reference, include the following process requirements:

- advertising nationally and consulting with all levels of government and affected parties (in particular people with disability and their representatives, community interest groups and industry);
- inviting submissions from stakeholders and making submissions publicly available as they are received;
- facilitating participation by people with disability by ensuring that any meeting for the purpose of the review is held at an accessible venue and that documentation and information distributed during the review are available in alternative formats; and
- preparing a list of stakeholders consulted, for inclusion in the final written report.

Literature review

The project team conducted a literature review of relevant documents, both to inform the development of a project Issues Paper and to provide relevant data for analysis of the effectiveness and efficiency of the Transport Standards. Key documents include documents used to develop the Transport Standards, including the *Regulation Impact Statement (RIS) on Draft Disability Standards for Accessible Public Transport* completed in 1999 and the *Technical Review Recommendations for the Draft Disability Standards for Accessible Transport RIS*, completed in 2002.

Reports that chart the progress with the Transport Standards, as well as accessibility issues more broadly, were reviewed and included:

- reports provided by State and Territory governments on progress with the Transport Standards under the agreement by the Australian Transport Council Ministers;
- available data on accessibility of public transport for people with disability;

- Action Plans of transport providers and authorities to achieve accessibility, as reported on the Action Plans register;
- decisions by the AHRC on complaints about accessibility made in the period since the introduction of the Transport Standards;
- information on exemptions to the Transport Standards provided since their introduction; and
- other reports, research or published comment from relevant stakeholder groups, including industry and disability advocacy groups, on how well the Transport Standards are working to date (given the compliance timetable).

B.2 Stage two: Informing stakeholders

Project website

A project review website was established on 8 May 2007 as a way of helping people to keep informed about the review and its progress (see <http://www.ddatransportreview.com.au/>). The site provided information on the review scope, timeline and ways in which stakeholders could participate in the review (including through submission and public hearings). The website included an online registration form for public hearings, as well links to background documents to the review (including relevant legislation). As the review progressed, the website provided access to key review documents, including the review Issues Paper, public hearing transcripts and written submissions. The website also had links to relevant sites, including relevant areas within the Department of Infrastructure, the AHRC, and the Attorney-General's Department.

The information on the website met the standards for accessibility in W3C Web Content Accessibility Guidelines 1.0 1999 (Priority Two). All documents on the website were available in Portable Document Format (PDF) and Rich Text Format (RTF).

Release of the project Issues Paper

A project Issues Paper was released on 24 May 2007 on the review website. The purpose of the Issues Paper was to assist those individuals and organisations wishing to provide submissions to the review. The Issues Paper set out:

- the objective of the review, including the review terms of reference;
- background and context for the review, including describing the objective of the Transport Standards, how they should be used, and the targets that need to be achieved by 31 December 2007; and
- the areas where the review was seeking information, including:
 - observed compliance with the Transport Standards (and supporting evidence);
 - evidence to suggest that the Transport Standards have led to increased patronage of public transport by people with disability;

- information on progress with specific areas of the Transport Standards, including areas where progress has been made, and areas where changes have been more difficult to achieve;
- any problems with the Transport Standards identified since their introduction; and
- evidence of costs incurred by transport providers, including cases where unjustifiable hardship has, or could be claimed.

The Issues Paper also included important information about the review process. It addressed the management of the review, including how to make written submissions and the deadline for providing submissions, the process for presenting at public hearings, and the address of the project website. In response to requests, a number of copies of the Issues Paper were provided to stakeholders in Braille.

The release of the review issues paper was advertised in selected newspapers on 24 May 2007 (see Appendix B). The public advertisements provided the review objective and timetable and how people could find out more information and take part in the review, including how interested stakeholders could download a copy of the Issues Paper from the review website.

B.3 Stage three: gathering information from stakeholders

A critical part of the project method was to ensure that all interested stakeholders had an opportunity to contribute to the review. Information provided by stakeholders was important for informing the analysis in this report. There were three key elements in gathering information from stakeholders:

- public hearings conducted in 15 locations across Australia, providing individuals and organisations with the opportunity to discuss their views with the review team directly;
- written submissions; and
- selected face-to-face meetings with a small set of government agencies.

Appendix B provides details of the written submissions received, registered public hearing participants and organisations involved in face-to-face meetings. The details for each element of information gathering are below.

Public hearings

Public hearings took place in all States and Territories, with a wide range of people attending to present information and analysis, to recount their own and others personal experiences, and provide insights into the impact of the Transport Standards. The public hearings took place between 11 July and 8 August 2007 (see Table B.1). In total, 108 organisations or individual speakers presented their views at public hearings. All organisations and individual speakers are listed in Appendix B.

The format of the public hearings involved individuals and representatives from organisations registering to speak. Each public hearing speaker was provided an allotted time to directly address a senior ACG review team representative. The review team representative then had an opportunity to ask questions of the speaker. Other interested parties were welcome to attend public hearings and listen to comments made by speakers. In most cases, interested parties in the audience put questions to the speakers or made follow-up comments on issues raised in the course of a presentation.

Table B.1

PUBLIC HEARINGS

Date	State / Territory	Location	No. of organisations / individual speakers
11 July	New South Wales	Dubbo	7
12 July	Victoria	Bendigo	5
16 July	Tasmania	Hobart	6
17 July	Tasmania	Launceston	2
18 July	Western Australia	Perth	6
19 July	Western Australia	Kalgoorlie	4
19-20 July	New South Wales	Sydney	13
26 July	Australian Capital Territory	Canberra	8
30 July	Queensland	Brisbane	13
31 July	Queensland	Townsville	6
6 August	South Australia	Adelaide	9
7-8 August	Victoria	Melbourne	12
7 August	South Australia	Mt Gambier	5
7 August	Northern Territory	Darwin	5
8 August	Northern Territory	Alice Springs	7

A range of measures were used to facilitate the attendance of people with disability at the public hearings (see Box 2.1).

Box B.1

PROVIDING ACCESS TO PUBLIC HEARINGS FOR PEOPLE WITH DISABILITY

Venues — as far as possible venues chosen were accessible for people with disability. The review team consulted with a range of organisations in choosing venues for public hearings, including the AHRC, the Productivity Commission, State and Territory Government agencies and local disability organisations. The venues chosen provided access for people with a mobility impairment, accessible toilets, drop-off and pick-up points for taxis and accessible parking.

Professional carers — carers were offered to participants at all venues, though were only requested in Sydney and Melbourne. Carers assisted at morning tea, lunch and afternoon tea breaks and during the hearings as required.

Auslan interpreters — Auslan interpreters were offered to participants at all venues, though were only requested in Sydney, Canberra and Melbourne.

Audio loop — audio hearing loops were provided in Canberra and Melbourne. These loops are used by people with a hearing impairment who use a hearing aid.

The strengths of the public hearing approach were that it:

- gave order to the discussions, and allowed participants to have an equal opportunity to speak;
- supported the use of Auslan translators (where requested), hearing loop technology and the recording of an official transcript, which requires that each person must speak into a microphone;
- provided a forum where the matters important to each party were able to be discussed, which supported the wide range of issues that are important to stakeholders; and
- enabled people to participate without needing to attend a long focus group session. Individuals could make their comments and decide whether to stay and listen to other comments. Many stakeholders chose to stay and listen to others, particularly to assist them in preparing their written submissions.

A full transcript of each hearing was taken, and made publicly available via the review website.¹²

Written submissions

As noted above, the Issues Paper released in May 2007 invited stakeholders to make written submissions to the review. Stakeholders were encouraged to provide supporting evidence for comments and views expressed in their submissions, including published research and data where available.

In response to feedback from stakeholders at the start of the review, three months were provided for stakeholders to provide written submissions (from the release of the Issues Paper). This deadline was 24 August, with 63 submissions received by this date. In response to several submissions still pending at this time, the Minister for Transport and Regional Services and the Attorney-General agreed on 3 September 2007 to an extension of deadline for submissions to 14 September 2007. Stakeholders who provided their submissions by the original deadline were given the opportunity to provide a supplementary submission by the new deadline. Twenty-five additional submissions were received by 14 September 2007, with a further five received after this deadline.

A total of 93 submissions were received from stakeholders up to 27 September 2007. All submitting organisations are listed on the project website and in Appendix B.¹³ Eight submissions were provided in confidence. The remaining 85 submissions were provided as public documents and were made available for downloading from the project website.

¹² See <http://www.ddatransportreview.com.au/?x=hearings>

¹³ See <http://www.ddatransportreview.com.au/?x=submissions>

Submissions were invited in electronic, audio or printed format. However, the stated preference was that submissions be provided in electronic format to facilitate their publication on the website and as a text document (.txt, .rtf), a Microsoft Word document (.doc) or similar text format in order to make them accessible for people using assistive technology, e.g. screen readers.

Face-to-face meetings

In addition to the public hearings, the review team conducted a small number of face-to-face interviews with:

- four State and Territory government departments; and
- the AHRC.

B.4 Stage four: develop initial findings and recommendations

ACG provided two written reports to the Australian Government Department of Infrastructure, Transport, Regional Development and Local Government and Australian Government Attorney-General's Department Steering Committee in the course of this project: a Draft Report; and this Final Report.

Draft Report

The Draft Report was prepared to respond to the review terms of reference and using the process described in sections 2.1 to 2.4 of this chapter. It presented analysis of the available data and information. On the basis of this information, the report presented draft conclusions on the efficiency and effectiveness of the Transport Standards in achieving their intended outcomes in the period. The report also presented draft recommendations on areas where the Transport Standards should be amended.

Comments on the Draft Report

The Draft Report was released 8 January 2008. Stakeholders were encouraged to review the draft conclusions and the draft recommendations and to respond with written comments. The Draft Report also raised some explicit questions on which stakeholder views were sought. The deadline for comments on the Draft Report was 31 March 2008. 38 submissions on the Draft Report were received by this date; an additional 16 submissions were received after this deadline.

A total of 54 submissions were received from stakeholders up to 6 May 2008. All submitting organisations are listed on the project website and in Appendix B.¹⁴ Two submissions were provided in confidence. The remaining 52 were provided as public documents and were made available for downloading from the project website.

As with the prior round of submissions, comments on the Draft Report were invited in electronic, audio or printed format.

¹⁴ See <http://www.ddatransportreview.com.au/?x=report>

B.5 Stage five: develop Final Report

The final stage in the review was to develop findings and present these in the Final Report. The final review report is based on the Draft Report and takes into account the stakeholder comments on the Draft Report and any further evidence provided by stakeholders.

The final review report includes final conclusions and recommendations.

Appendix C

Stakeholder consultation

C.1 Newspaper advertisements

Table C.2

NEWSPAPER ADVERTISEMENTS TO ANNOUNCE THE REVIEW

Date of advertisement	Newspaper
24 May 2007	The Adelaide Advertiser
24 May 2007	The Age
24 May 2007	The Australian
24 May 2007	The Courier Mail
24 May 2007	The Hobart Mercury
24 May 2007	The Land
24 May 2007	Northern Territory News
24 May 2007	The Sydney Morning Herald
24 May 2007	The West Australian

Box C.2

TEXT OF NEWSPAPER ADVERTISEMENT

Review of the Disability Standards for Accessible Public Transport 2002 - Invitation for Submissions

The Allen Consulting Group is undertaking a review of the *Disability Standards for Accessible Public Transport 2002* (the Transport Standards) for the Australian Government.

The Transport Standards complement the *Disability Discrimination Act 1992*, and are designed to enable public transport operators and providers to remove discrimination from public transport services. The Minister for Transport and Regional Services, in consultation with the Attorney-General, is required to review the efficiency and effectiveness of the Transport Standards within five years of their taking effect and subsequently every five years.

An issues paper, and additional review-related information, is available from <http://www.ddatransportreview.com.au>.

Interested stakeholders wishing to contribute to the review are invited to lodge submissions addressing the review's terms of reference, by 24 August 2007.

A Final Report is to be provided to the Australian Government by 14 December 2007.

Enquiries regarding the review may be directed to: Sharon Kennard - (02) 6204 6500 or dstransport@allenconsult.com.au.

The Allen Consulting Group

C.2 Written submissions

Table C.3

WRITTEN SUBMISSIONS RECEIVED (AS AT OCTOBER 5 2007)

No.	Date received	Submitting organisation/individual	Confidential?
1		Alex Naughton-Smtih	No
2		Helen Dare	No
3		Spinal Injuries Association	No
4		Short Statured Peoples Association (WA Branch)	No
5		Royal Blind Society	No
6		Australian Airports Association	No
7		Access for All Alliance (Hard copy)	No
8		City of Stirling	Yes
9		Sally Eves	No
10	07/08/2007	Deafness Forum of Australia	No
11	14/08/2007	Australian Federation of Disability Organisations	No
12	17/08/2007	Blind Citizens Australia	No
13	17/08/2007	Ashfield Access Committee	No
14	21/08/2007	Wellington Shire Council	No
15	22/08/2007	Allen Ringland	No
16	22/08/2007	District Council of Grant (Hard copy)	No
17	22/08/2007	Australasian Rail Association	No
18	22/08/2007	Margo Hodge	No
19	22/08/2007	Association for the Blind WA	No
20	23/08/2007	Joint Industry Response — Australasian Rail Association, Australian Taxi Industry Association, International Association of Public transport (UITP), Bus Industry Confederation of Australia.	No
21	23/08/2007	Rob Pyne	No
22	23/08/2007	City of Onkaparinga	No
23	23/08/2007	South West Advocacy Association	No
24	23/08/2007	East Gippsland Transport Working Group	No
25	23/08/2007	Disability Discrimination Legal Centre (NSW)	No
26	23/08/2007	Local Government Association of NSW and Shires Association of NSW	No
27	23/08/2007	Queenslanders with Disability Network	No
28	23/08/2007	Australian Local Government Association	No
29	23/08/2007	People with Disability Australia	No
30	24/08/2007	Western Australian Local Government Association	No
31	20/08/2007	Hazel Myers	No

32	24/08/2007	Vision Australia	No
33	24/08/2007	Tasmanian Government	Yes
34	24/08/2007	Yarra Trams	No
35	24/08/2007	Regional Aviation Association of Australia	No
36	24/08/2007	South Australian Government	Yes
37	24/08/2007	Cairns Community Legal Centre	No
38	24/08/2007	Physical Disability Council of NSW	No
39	24/08/2007	Disability Australian Limited	No
40	24/08/2007	Anti-Discrimination Commission Queensland	No
41	24/08/2007	Public Transport Authority of WA	No
42	24/08/2007	David Frick	No
43	24/08/2007	Far North Queensland Tour Operators Association	No
44	24/08/2007	Kingsford Legal Centre	No
45	24/08/2007	Greg Killeen	Yes
46	24/08/2007	Local Government Association of South Australia	No
47	24/08/2007	Age Friendly Bus Project – University of Queensland	No
48	24/08/2007	Qantas	No
49	24/08/2007	Inter-agency Access Forum	No
50	24/08/2007	Queensland Department of Transport	No
51	24/08/2007	Australian Taxi Industry Association	No
52	24/08/2007	Local Government Association of Queensland	No
53	24/08/2007	Guide Dogs NSW/ACT	No
54	24/08/2007	Allergy and Environmental Sensitivity Support and Research Association	Yes
55	24/08/2007	Hervey Bay City Council	Yes
56	24/08/2007	Southern Sydney Regional Organisation of Councils (SSROC) Access Forum	No
57	24/08/2007	Holroyd City Council	No
58	24/08/2007	Victorian Equal Opportunity and Human Rights Commission	No
59	24/08/2007	Yooralla	No
60	24/08/2007	Inner West Community Transport	No
61	24/08/2007	Newcastle City Council	No
62	24/08/2007	Hilary Rumley	No
63	24/08/2007	Public Interest Advocacy Centre	No
64	25/08/2007	ParaQuad NSW	Yes
65	27/08/2007	Regional Express	Yes
66	27/08/2007	Joint submission – People with Disabilities WA, Ministerial Advisory Council on Disabilities, Disability Services Commission of Western Australia	No
67	27/08/2007	Epilepsy Action Australia	No
68	27/08/2007	Victorian Council of Social Service	No

69	28/08/2007	John Clarke	Yes
70	29/08/2007	Northern Rivers Social Development Council	No
71	30/08/2007	Victorian Government Department of Infrastructure	No
72	31/08/2007	National Ethnic Disability Alliance	No
73	04/09/2007	New South Wale Bus and Coach Association	No
74	04/09/2007	Peter Simpson	No
75	06/09/2007	Disability Services Queensland	No
76	11/09/2007	Spinal Cord Injuries Australia	No
77	07/09/2007	Human Rights Commission ACT	No
78	03/09/2007	Max Murray	No
79	06/09/2007	National Council on Intellectual Disability	No
80	14/09/2007	Physical Disability Council of Australia	No
81	14/09/2007	Western Australian Department of Planning and Infrastructure	No
82	14/09/2007	Council for Social Services of New South Wales	No
83	14/09/2007	VirginBlue	No
84	14/09/2007	Alan Ringland (second submission)	No
85	14/09/2007	Australian Taxi Industry Association (second submission)	No
86	14/09/2007	National Disability Services Queensland	No
87	14/09/2007	Bus Industry Confederation	No
88	14/09/2007	Association of Consultants in Access Australia	No
89	17/09/2007	ACT Government	No
90	20/09/2007	NSW Government	No
91	25/09/2007	NT Government	No
92	23/09/2007	Simon Darcy	No
93	27/09/2007	Penrith City Council	No

C.3 Public hearing locations and participants

Dubbo – 11 July 2007

Table C.4

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Jessie Goldsmith	Analyst
Attendees	
Merilyn Ward	Break Thru People Solutions
Frank Newman	Break Thru People Solutions
Geoff Ferris	Buslines Group
Mr Neill	Buslines Group
Tanya Moody	NSW Dept of Ageing, Disability and Home Care
Mr Bryan	Dubbo Radio Cabs
Val and Peter Cannon	NA
Sue Gorman	Ideas Inc
Ian Roberts	Dubbo Radio Cabs
Observers	
Christopher Fallon	NA
James McDonell	Westhaven Association
Lindsay Mason	Dubbo City Council
Kym Starr	Department of Transport and Regional Services

Bendigo – 12 July 2007

Table C.5

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Melissa Skilbeck	Director
Jessie Goldsmith	Analyst
Attendees	
Jim Dunn	Local Client Group Wangaratta
Raelene Dennis	NA
Robert Pascoe	NA
Chris Walters	City of Greater Bendigo
Maureen McMahon	City of Greater Bendigo
Bill Ellson	N/A (Father of Raelene Dennis)
Observers	
Kate Sommerville	Frankston City Council
Bev Watson	Macedon Ranges Shire
Jenny Sitlington	Macedon Ranges Shire
Emilio Savle	Department of Infrastructure
Derek Tarry	Department of Transport and Regional Services

Hobart – 16 July 2007

Table C.6

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Sharon Kennard	Manager
Attendees	
Tony Sim	Metro Tasmania (Bus)
Jack Lane	Metro Tasmania (Bus)
David Gordon	Tasmanians with disabilities
Geoff Lewis	Tasmanian Bus Association
Shane Dewsbery	Tasmanian Bus Association
Daniel Burnaby	Department of Infrastructure, Energy and Resources
Jan Miller	Tasmanians with disabilities
David Pearce	Glenorchy City Council
Mr Potts	Glenorchy Access Committee
Observers	
Rebecca Thompson	Advocacy Tasmania Inc
James Verrier	Department of Infrastructure, Energy and Resources
Victoria Jubb	Department of Transport and Regional Services

Launceston – 17 July 2007

Table C.7

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Sharon Kennard	Manager
Attendees	
Karen Frost	Independent Living Centre (Tas) Inc
Mandy Bowden	Tasmanian Acquired Brain Injury Services
Observers	
Victoria Jubb	Department of Transport and Regional Services

Perth 18 – July 2007

Table C.8

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Leonie Buktenica	Senior Analyst
Attendees	
Greg Madson	Blind Citizens WA
Keith Hayes	Blind Citizens Australia
Erika Webb	Blind Citizens WA
Mike Mulroy	Ministerial Advisory Council on Disability
John Offer	City of Stirling
Mark Hook	WA Local Governments Department
Mark Hutson	Disability Services Commission
Observers	
Graham McClure	Skywest Airlines
Gail Ambrose	Ministerial Advisory Council on Disability
Denise Barr	Skippers Aviation
Alice Haning	Department of Planning and Infrastructure
Michael Kennedy	Department of Planning and Infrastructure
Kym Starr	Department of Transport and Regional Services

Kalgoorlie – 19 July 2007

Table C.9

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Leonie Buktenica	Senior Analyst
Attendees	
Sheila Hatton	Disability Services Commission
David Foote	NA
Derek Richards	NA
Kylie Pettit	Disability Services Commission
Maxine Lane	Commonwealth Respite, Carelink
Observers	
Kym Starr	Department of Transport and Regional Services

Sydney – 19 July 2007

Table C.10

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Mary Ann O'Loughlin	Director
Kathleen Forrester	Senior Manager
Attendees	
Digby Hughes	People with Disabilities
Greg Killeen	NA
Simon Darcy	University of Technology, Sydney
Mark Relf	Association for Consultancy and Access Australia
Ann Mason Furnage	Physical Disability Council
Jordana Goodman	Physical Disability Council
Sean Lomas	Spinal Cord Injuries Australia
Observers	
Joanna Nicol	City of Sydney
Ebru Sumaktas	Vision Australia
Jackie Campisi	Waverley Council
Linda Frow	Council of Social Services
Anita Smith	Sutherland Shire Council
Paul Nunmari	National Disability and Carer Ministerial Advisory Council
Ann Chaffey	National Disability and Care Ministerial Advisory Council
Barry Chapman	Blind Citizens Australia
Jane Bryce	Interagency Access Forum
Danielle Hogan	Interagency Access Forum
Desmond Creagh	Guide Dogs NSW/ACT
Tina Woodman	Buslines Group
Peter Simpson	PSE Access Consulting
Richard Langereis	NSW Ministry of Transport
Derek Tarry	Department of Transport and Regional Services

Sydney – 20 July 2007

Table C.11

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Mary Ann O'Loughlin	Director
Sharon Kennard	Manager
Attendees	
Jane Bryce	Interagency Access Forum
Barry Chapman	Interagency Access Forum
Susan Thompson	Interagency Access Forum
Blair Davies	Australian Taxi Industry Association
John Bowe	Australian Taxi Industry Association
Douglas Herd	Disability Council of NSW
Tina Woodman	Buslines Group
Dinesh Wadiwell	Council of Social Services NSW
Brenda Bailey	Public Interest Advocacy Group
Alexis Goodstone	Public Interest Advocacy Group
Hazel Myers	NA
Observers	
Joanna Nicol	City of Sydney
Ebru Sumaktas	Vision Australia
Jackie Campisi	Waverley Council
Anita Smith	Sutherland Shire Council
Paul Nunmari	National Disability and Carer Ministerial Advisory Council
Ann Chaffey	National Disability and Care Ministerial Advisory Council
Desmond Creagh	Guide Dogs NSW/ACT
Peter Simpson	PSE Access Consulting
Derek Tarry	Department of Transport and Regional Services

Canberra – 26 July 2007

Table C.12

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Jessie Goldsmith	Analyst
Attendees	
Craig Wallace	Disability Advisory Council
Robert Altamore	Blind Citizens ACT
Nicole Lawder	Deafness Forum
Michael Apps	The Bus Industry Confederation
Peter Moore	International Association of Public Transport
John Stott	International Union of Public Transport
Kylie Maher	People with Disabilities ACT
Margot Hodge	People with Disabilities ACT
Doug Hjort	Transborder Express
Observers	
Kerry Bell	Department of Territory and Municipal Services
Corey Thoresen	Brindabella Airlines
Adrian Beresford-Wylie	Australian Local Government Association
Derek Tarry	Department of Transport and Regional Services
Paul Highmore	Attorney-General's Department

Brisbane – 30 July 2007

Table C.13

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Melissa Skilbeck	Director
Kathleen Forrester	Senior Manager
Attendees	
Paul Larcombe	Disability Council of Queensland
Nigel Webb	NA
Bernadette Scalora	NA
Tom Savage	Brisbane City Council
Nick Le Mare	Virgin Blue
Mike Thomas	Virgin Blue
Kay MacLean	Regional Disability Council
Ann Langley	Regional Disability Council
Wendy Lavelle	Cerebral Palsy League of Australia
Sally Mills	Queensland Transport
Kirrily Wyford	Spinal Cord Injuries Australia
Elene Athousis	Medical Aids Subsidy Scheme
Fay Forrester	Caloundra City Council
Judith Quirk	Disability Services Queensland
Mike Lollback	Maroochy Shire Council
Observers	
Elizabeth Navratil	NA
Scott Chaseling	Brisbane City Council
John MacPherson	Brisbane City Council
John Deterling	Queensland Rail
Bill Garsden	Transport Lobby Group
Annie Parks	Disability Services Queensland
Victoria Jubb	Department of Transport and Regional Services
Melanie Brocklehurst	Attorney-General's Department

Townsville – 31 July 2007

Table C.14

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Names	Organisation/Position
Allen Consulting Group Representatives	
Melissa Skilbeck	Director
Kathleen Forrester	Senior Manager
Attendees	
Anita Murray	NA
Max Murray	NA
Cynthia Berthelsen	Gayndah Shire Council
Ross Maxted	Far North Queensland Operators Association and Tropical Horizons
Gordon Dixon	Far North Queensland Operators Association and Down Under Tours
David Downey	Quicksilver Connections
Observers	
Angela O'Keefe	People with MS Qld
Mark Craig	Regional Pacific
Verne Moyle	Corporate Air Services
Victoria Jubb	Department of Transport and Regional Services
Melanie Brocklehurst	Attorney-General's Department

Adelaide – 6 August 2007

Table C.15

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr Les Trudzik	Director
Tanuja Doss	Senior Analyst
Attendees	
Cath Gunn	Communication Project Group
Maurice Corcoran	Office of Disability and Client Services
Helen Bevan	Office of Disability and Client Services
Tony Starkey	Royal Society of the Blind
Glenda Lee	Physical Disability Council of Australia
Ian Grundy	NA
Ray Scott	Physical Disability Council of SA
David Hitchcock	Local Government Association of SA
Murray Conahan	Local Government Association of SA
Wayne Crabb	Community Accommodation and Respite Agency
David Frick	NA
Observers	
Thomas Eltridge-Smith	South Australian Government Department of Transport, Energy and Infrastructure, Public Transport Division
Trevor Harrison	Harrison Consultants
Jill Fowler	Harrison Consultants
Julie Viney	Harrison Consultants
Paul Burns	TransAdelaide
Jeanette Bath	TransAdelaide
Leanne Davis-King	City of Port Adelaide Enfield
Julian Sowik	City of Unley
Warwick Mehrrens	Department of Transport, Energy and Infrastructure
Grant Drummond	District Council of Ceduna
Chris Triantafyllou	Adelaide Access Taxis
Sam Kenny	City of Charles Sturt
Kym Starr	Department of Transport and Regional Services

Mount Gambier – 7 August 2007

Table C.16

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr Les Trudzik	Director
Tanuja Doss	Senior Analyst
Attendees	
Russell Peate	District Council of Grant
Chris Nelson	Consultant for Mount Gambier and District Airport
Tracey Gardsenni	Greater City Access
Ole Gardsenni	Greater City Access
Brett Barney	Disability SA
N Ling	NA
Observers	
Grant Humphries	City of Mount Gambier
Kym Starr	Department of Transport and Regional Services

Darwin – 7 August 2007

Table C.17

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Jessie Goldsmith	Analyst
Attendees	
Joyce Deering	Integrated Disability Action
Bill Kerr	Integrated Disability Action
Tracy McCurrie	Somerville Community Service
Aaron Blasch	Buslink
Terry Morgan	Buslink
Jane Burford	Epilepsy Action Australia
Rhyanwen Bauman	Darwin Legal Community Service
Observers	
Damien Aird	Capiteq Ltd
Greg Scott	Northern Territory Department of Infrastructure
Leila Collins	City of Palmerston Council
Kym Randerson	Down Syndrome Association
Geoff Johnston	Department of Transport and Regional Services

Melbourne – 7 August 2007

Table C.18

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Melissa Skilbeck	Director
James Green	Analyst
Attendees	
Frank Hall-Bentick	Disability Australia Ltd
Lindsay Donahoo	Sterling Group
Garry Hammer	Wellington Access and Inclusion Group
Francis Ford	Wellington Shire Council
Carla Anderson	Able Australia
Effie Meehan	Unknown Affiliation
Jessica Zammit	Blind Citizens Australia
Samantha Jenkinson	Australian Federation of Disability Organisations
Maurice Corcoran	Australian Federation of Disability Organisations
Brian Kiley	Disability Consulting Access Committee of Ballarat
Observers	
Christiann Astourian	Diversity and Disability
Leah Hobson	Blind Citizens Australia
Ross Coverdale	Araluen
Collette O'Neill	Australian Federation of Disability Organisations
Bob Kellow	Disabled Access Consultancy P/L
Rhonda Joseph	Scope Victoria
Peter Hibbert	Scope Victoria
John McKenna	Travellers' Aid
Andrea Macdonald	Department of Infrastructure
Jim North	Department of Infrastructure
Anna Giannacos	Department of Infrastructure
Emilio Savle	Department of Infrastructure
Margaret Stevens	Victorian Women with Disabilities
Maree Ireland	Action for Community Living
Rhonda James	East Gippsland Shire Council
Janice Florence	ParaQuad Victoria
Chris Sharkey	Metlink Victoria P/L
Felicity Kotsiaris	Metlink Victoria P/L
Grant Cooper	Metlink Victoria P/L
Nick Highfield	Connex

Name	Organisation/Position
Philip Purdy	Yarra Trams
Ingrid Hindell	NA
Heather Forsythe	National Disability and Carer Ministerial Advisory Council
Helen Karatonis	V/Line
Tracy Steiner	Deaf Access Victoria
Trevor Carroll	NA
Jess Fritze	Victorian Council of Social Services
Victoria Jubb	Department of Transport and Regional Services

Melbourne – 8 August 2007

Table C.19

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Names	Organisation/Position
Allen Consulting Group Representatives	
Melissa Skilbeck	Director
James Green	Analyst
Attendees	
Leah Hobson	Blind Citizens Australia
Alyena Mohummadally	Blind Citizens Australia
Jeanette Lee	Yooralla
Mary Vella	Yooralla
Kate Colvin	Victorian Council of Social Services
Maree Kelly	Victorian Council of Social Services
Observers	
Christiann Astourian	Diversity and Disability
Ross Coverdale	Araluen
Collette O'Neill	Australian Federation of Disability Organisations
Bob Kellow	Disabled Access Consultancy P/L
Rhonda Joseph	Scope Victoria
Peter Hibbert	Scope Victoria
John McKenna	Travellers' Aid
Andrea Macdonald	Department of Infrastructure
Jim North	Department of Infrastructure
Anna Giannacos	Department of Infrastructure
Emilio Savle	Department of Infrastructure
Margaret Stevens	Victorian Women with Disabilities
Maree Ireland	Action for Community Living
Rhonda James	East Gippsland Shire Council

Janice Florence	ParaQuad Victoria
Chris Sharkey	Metlink Victoria P/L
Felicity Kotsiaris	Metlink Victoria P/L
Grant Cooper	Metlink Victoria P/L
Nick Highfield	Connex
Philip Purdy	Yarra Trams
Ingrid Hindell	NA
Lindsay Donahoo	Sterling Group
Heather Forsythe	National Disability and Carer Ministerial Advisory Council
Helen Karatonis	V/Line
Tracy Steiner	Deaf Access Victoria
Trevor Carroll	NA
Jess Fritze	Victorian Council of Social Services
Kym Starr	Department of Transport and Regional Services

Alice Springs – 8 August 2007

Table C.20

REPRESENTATIVES, ATTENDEES (IN ORDER OF SPEAKING) AND OBSERVERS

Name	Organisation/Position
Allen Consulting Group Representatives	
Dr John Bell	Associate Director
Jessie Goldsmith	Analyst
Attendees	
Cliff Alexander	Disability Advocacy Service
Lindy Cameron	Central Australia Support Accommodation
Barry Sams	Central Australia Support Accommodation
Michelle Castagna	Disability Services Liaison
Paul Barreau	Alice Springs Town Council
Gerard Waterford	Central Australian Aboriginal Congress
Katrina Whan	Steps Disability Employment
Karen Edwards	Steps Disability Employment
Le Hi Archibald	Buslink
Observers	
Marrienne Langford	Acacia Hill School
Heidi Seidler	Australian Red Cross
Geoff Johnston	Department of Transport and Regional Services

C.4 Individual meetings

Table C.21

INDIVIDUAL MEETINGS

Date	Location	Organisation
6/8/2007	Adelaide	South Australian Government Department of Transport, Energy and Infrastructure, Public Transport Division
8/8/2007	Darwin	Northern Territory Department of Infrastructure
17/8/2007	Sydney	HREOC
17/8/2007	Sydney	New South Wales Ministry of Transport
7/9/2007	Melbourne	Victorian Government Department of Infrastructure

C.5 Submissions on the Draft Report received

Table C.22

WRITTEN COMMENTS ON DRAFT REPORT

No.	Date received	Submitting organisation/individual	Confidential?
DR1	24/01/2008	William Hunter	No
DR2	03/02/2008	Alan Ringland	No
DR3	19/02/2008	ParaQuad Victoria	No
DR4	20/03/2008	Dr Lindy Gulland	No
DR5	27/03/2008	Institute of Public Works Engineering Australia	No
DR6	27/03/2008	East Gippsland Shire Council	No
DR7	27/03/2008	NCOSS	No
DR8	28/03/2008	Parramatta City Council	No
DR9	28/03/2008	Victorian Local Government Disability Planners Network	No
DR10	28/03/2008	Outdoor Media Association	No
DR11	31/03/2008	National Ethnic Disability Alliance	No
DR12	31/03/2008	Age Friendly Buses Project, University of Queensland	No
DR13	31/03/2008	Independent Living Centre NSW	No
DR14	31/03/2008	Virgin Blue	No
DR15	31/03/2008	Sutherland Shire Council	No
DR16	31/03/2008	WA Disability Services Commission	No
DR17	14/04/2008	Australian Federation of Disability Organisations — AMENDED	No
DR18	31/03/2008	Newcastle City Council	No
DR19	31/03/2008	Human Rights Commission ACT	No

DR20	31/03/2008	Bus Industry Confederation	No
DR21	31/03/2008	Municipal Association of Victoria	No
DR22	31/03/2008	Greg Killeen	Yes
DR23	31/03/2008	Australian Local Government Association	No
DR24	31/03/2008	Local Government Association of SA	No
DR25	31/03/2008	LINK Community Transport	No
DR26	31/03/2008	Glen Ford	No
DR27	31/03/2008	Blind Citizens Australia	No
DR28	31/03/2008	SCI Australia	No
DR29	31/03/2008	Interagency Access Forum	No
DR30	31/03/2008	Wellington Shire Council	No
DR31	31/03/2008	Australasian Rail Association	No
DR32	31/03/2008	Australian Taxi Industry Association	No
DR33	31/03/2008	Western Sydney Regional Organisation of Councils Ltd	No
DR34	31/03/2008	Kay Maclean	No
DR35	31/03/2008	Deaf Access Victoria	No
DR36	31/03/2008	Yarra Trams	No
DR37	31/03/2008	NSW Government	No
DR38	31/03/2008	Sydney Legacy	No
DR39	19/03/2008	People With Disabilities ACT	No
DR40	30/01/2008	Penrith Photo-Voice Project	No
DR41	10/03/2008	Hobson Bay City Council	No
DR42	31/03/2008	UnitingCare Community Options	No
DR43	14/04/2008	Victorian Equal Opportunities and Human Rights Commission	No
DR44	10/04/2008	Public Interest Advocacy Centre	No
DR45	09/04/2008	Qantas Airways Limited	No
DR46	09/04/2008	People With Disabilities (WA)	No
DR47	08/04/2008	NSW Disability Discrimination Legal Centre	No
DR48	08/04/2008	Physical Disability Council of NSW	No
DR49	18/04/2008	Queensland Department of Transport	No
DR50	16/04/2008	Tasmanian Department of Infrastructure, Energy and Resources	Yes
DR51	10/04/2008	West Australian Department for Planning and Infrastructure	No
DR52	02/04/2008	Northern Territory Government	No
DR53	22/04/2008	South Australian Government	No
DR54	06/05/2008	Victorian Department of Infrastructure, Public Transport Division	No

*Appendix D***Applicability of the Transport Standards by mode of transport****D.1 Trains**

Table D.1

TRAIN TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Transport Standard	Train travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes	
2.2 Continuous accessibility		Yes	Yes	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes	
2.4 Minimum unobstructed width		Yes	Yes	
2.5 Poles and obstacles, etc.		Yes	Yes	
2.6 Access paths – conveyances	Yes			
2.7 Minimum width between front wheel arches of bus	No			
2.8 Extent of path	Yes			
2.9 When an access path is not required	No			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes	
3.2 Access for passengers in wheelchairs	Yes			
3.3 Limited on-board manoeuvring	No			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes	
4.2 Two-way access paths and aerobridges		Yes	Yes	
4.3 Passing areas – conveyances	Yes			
Part 5 – Resting points				25%
5.1 When resting points must be provided		Yes	Yes	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes	
6.2 Boarding ramps	Yes			
6.3 Minimum allowed width	Yes			
6.4 Slope of external boarding ramps	Yes			
6.5 Slope of ramps connected to pontoon wharves			Yes	
Part 7 – Waiting areas				100%
7.1 Minimum numbers of seats to be provided		Yes	Yes	

Train travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
7.2 Minimum number of allocated spaces to be provided		Yes	Yes	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes	
8.2 When boarding devices must be provided	Yes			
8.3 Use of boarding devices	Yes			
8.4 Hail-and-ride services	No			
8.5 Width and surface of boarding devices	Yes			
8.6 Maximum load to be supported by boarding device	Yes			
8.7 Signals requesting use of boarding device	Yes			
8.8 Notification by passenger of need for boarding device	Yes	Yes	Yes	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes	Yes	Yes	
9.2 Minimum number of allocated spaces to be provided	No			
9.3 Minimum head room	No			
9.4 Number of allocated spaces to be provided – buses	No			
9.5 Number of allocated spaces to be provided – ferries	No			
9.6 Number of allocated spaces to be provided – train cars, etc	Yes			
9.7 Consolidation of allocated space	Yes			
9.8 Allocated spaces in aircraft and coaches	No			
9.9 Use of allocated space for other purposes	Yes			
9.10 International symbol of accessibility to be displayed	Yes			
9.11 Movement of mobility aid in allocated space	No			
Part 10 – Surfaces				1 st target 2012
10.1 Compliance with Australian Standard	Yes	Yes	Yes	
Part 11 – Handrails and Grabrails				1 st target 2012
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
11.2 Handrails to be provided on access paths		Yes	Yes	
11.3 Handrails on steps	Yes			
11.4 Handrails above access paths	Yes			
11.5 Compliance with Australian Standard	Yes	Yes	Yes	
11.6 Grabrail to be provided where fares are to be paid	Yes	Yes	Yes	
11.7 Grabrails to be provided in allocated spaces	Yes			

Train travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
Part 12 – Doorways and Doors				25%
12.1 Doors on access paths	Yes	Yes	Yes	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
12.3 Weight activated doors and sensors		Yes	Yes	
12.4 Clear opening of doorways	Yes			
12.5 Vertical height of doorways	No			
12.6 Automatic or power-assisted doors	Yes			
Part 13 – Lifts				25%
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
Part 14 – Stairs				25%
14.1 Stairs not to be the sole means of access	Yes	Yes	Yes	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes	
14.3 Compliance with Australian Standards – conveyances	Yes			
14.4 Compliance with Australian Design Rule 58 – conveyances	No			
Part 15 – Toilets				25%
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes	
15.2 Location of accessible toilets		Yes	Yes	
15.3 Unisex toilet – ferries and accessible rail cars	Yes			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	Yes			
15.5 Accessible toilet to be provided – aircraft	No			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100%
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	No			
16.5 Accessibility symbols to be visible on accessible doors	Yes			
Part 17 – Signs				100%
17.1 Height and illumination	Yes	Yes	Yes	
17.2 Location – premises and infrastructure		Yes	Yes	
17.3 Location – conveyances	Yes			

Transport Standard	Train travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
17.4 Destination signs to be visible from boarding point	Yes			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	No			
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			No	
18.4 Instalment at railway stations			Yes	
18.5 Instalment at wharves			No	
Part 19 – Alarms				100%
19.1 Emergency warning systems	Yes	Yes	Yes	
Part 20 – Lighting				100%
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	Yes			
20.3 Dimming	Yes			
Part 21 – Controls				25%
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
21.2 Passenger-operated devices for opening and closing doors	Yes			
21.3 Location of passenger-operated controls for opening and locking doors	Yes			
21.4 Signal devices for conveyances that stop on request	No			
Part 22 – Furniture and fitments				100%
22.1 Tables, benches, counters etc.		Yes	Yes	
22.2 Information desks, check-in counters, etc – airports		No		
22.3 Accessible sleeping berths – ferries and trains	Yes			
22.4 Accessible sleeping berths – ferries	No			
22.5 Accessible sleeping berths – trains	Yes			
22.6 Accessible berths to be connected to access path – ferries and trains	Yes			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes	
Part 24 – Gateways				1 st target 2012
24.1 Gateways and checkouts		Yes	Yes	

Transport Standard	Train travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending machines		Yes	Yes	
Part 26 – Hearing augmentation – listening systems				100%
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	Yes			
Part 27 – Information				100%
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				100%
28.1 Notice of requirement for accessible travel	Yes			
28.2 Period of notice required for accessible travel	Yes			
28.3 Location of carers, assistants and service animals	Yes			
28.4 Accessible seats to be available for passengers with disabilities	Yes			
Part 29 – Food and drink services				100%
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes	
29.3 Space for passengers using mobility aids	Yes			
Part 30 – Belongings				100%
30.1 Disability aids to be in addition to baggage allowance	Yes			
Part 31 – Priority				100%
31.1 Priority seating	Yes			
31.2 Information to be provided about vacating priority seating	Yes			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.
Source:

D.2 Trams

Table D.2

TRAM AND LIGHT RAIL TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Tram and Light rail travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes	
2.2 Continuous accessibility		Yes	Yes	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes	
2.4 Minimum unobstructed width		Yes	Yes	
2.5 Poles and obstacles, etc.		Yes	Yes	
2.6 Access paths – conveyances	Yes			
2.7 Minimum width between front wheel arches of bus	No			
2.8 Extent of path	Yes			
2.9 When an access path is not required	No			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes	
3.2 Access for passengers in wheelchairs	Yes			
3.3 Limited on-board manoeuvring	No			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes	
4.2 Two-way access paths and aerobridges		Yes	Yes	
4.3 Passing areas – conveyances	No			
Part 5 – Resting points				25%
5.1 When resting points must be provided		Yes	Yes	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes	
6.2 Boarding ramps	Yes			
6.3 Minimum allowed width	Yes			
6.4 Slope of external boarding ramps	Yes			
6.5 Slope of ramps connected to pontoon wharves			Yes	
Part 7 – Waiting areas				100%
7.1 Minimum numbers of seats to be provided		Yes	Yes	
7.2 Minimum number of allocated spaces to be provided		Yes	Yes	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes	
8.2 When boarding devices must be provided	Yes			
8.3 Use of boarding devices	Yes			

Tram and Light rail travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
8.4 Hail-and-ride services	No			
8.5 Width and surface of boarding devices	Yes			
8.6 Maximum load to be supported by boarding device	Yes			
8.7 Signals requesting use of boarding device	Yes			
8.8 Notification by passenger of need for boarding device	Yes	Yes	Yes	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes	Yes	Yes	
9.2 Minimum number of allocated spaces to be provided	No			
9.3 Minimum head room	No			
9.4 Number of allocated spaces to be provided – buses	No			
9.5 Number of allocated spaces to be provided – ferries	No			
9.6 Number of allocated spaces to be provided – train cars, etc	Yes			
9.7 Consolidation of allocated space	Yes			
9.8 Allocated spaces in aircraft and coaches	No			
9.9 Use of allocated space for other purposes	Yes			
9.10 International symbol of accessibility to be displayed	Yes			
9.11 Movement of mobility aid in allocated space	Yes			
Part 10 – Surfaces				1 st target 2012
10.1 Compliance with Australian Standard	Yes	Yes	Yes	
Part 11 – Handrails and Grabrails				1 st target 2012
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
11.2 Handrails to be provided on access paths		Yes	Yes	
11.3 Handrails on steps	Yes			
11.4 Handrails above access paths	Yes			
11.5 Compliance with Australian Standard	Yes	Yes	Yes	
11.6 Grabrail to be provided where fares are to be paid	Yes	Yes	Yes	
11.7 Grabrails to be provided in allocated spaces	Yes			
Part 12 – Doorways and Doors				25%
12.1 Doors on access paths	Yes	Yes	Yes	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
12.3 Weight activated doors and sensors		Yes	Yes	
12.4 Clear opening of doorways	Yes			

Tram and Light rail travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
12.5 Vertical height of doorways	No			
12.6 Automatic or power-assisted doors	Yes			
Part 13 – Lifts				25%
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
Part 14 – Stairs				25%
14.1 Stairs not to be the sole means of access	Yes	Yes	Yes	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes	
14.3 Compliance with Australian Standards – conveyances	Yes			
14.4 Compliance with Australian Design Rule 58 – conveyances	No			
Part 15 – Toilets				25%
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes	
15.2 Location of accessible toilets		Yes	Yes	
15.3 Unisex toilet – ferries and accessible rail cars	No			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	No			
15.5 Accessible toilet to be provided – aircraft	No			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100%
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	No			
16.5 Accessibility symbols to be visible on accessible doors	Yes			
Part 17 – Signs				100%
17.1 Height and illumination	Yes	Yes	Yes	
17.2 Location – premises and infrastructure		Yes	Yes	
17.3 Location – conveyances	Yes			
17.4 Destination signs to be visible from boarding point	Yes			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	No			

Tram and Light rail travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			No	
18.4 Instalment at railway stations			No	
18.5 Instalment at wharves			No	
Part 19 – Alarms				100%
19.1 Emergency warning systems	Yes	Yes	Yes	
Part 20 – Lighting				100%
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	Yes			
20.3 Dimming	Yes			
Part 21 – Controls				25%
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
21.2 Passenger-operated devices for opening and closing doors	Yes			
21.3 Location of passenger-operated controls for opening and locking doors	Yes			
21.4 Signal devices for conveyances that stop on request	Yes			
Part 22 – Furniture and fitments				100%
22.1 Tables, benches, counters etc.		Yes	Yes	
22.2 Information desks, check-in counters, etc – airports		No		
22.3 Accessible sleeping berths – ferries and trains	No			
22.4 Accessible sleeping berths – ferries	No			
22.5 Accessible sleeping berths – trains	No			
22.6 Accessible berths to be connected to access path – ferries and trains	No			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes	
Part 24 – Gateways				1 st target 2012
24.1 Gateways and checkouts		Yes	Yes	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending		Yes	Yes	

Tram and Light rail travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
machines				
Part 26 – Hearing augmentation – listening systems				100%
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	Yes			
Part 27 – Information				100%
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				
28.1 Notice of requirement for accessible travel	No			
28.2 Period of notice required for accessible travel	No			
28.3 Location of carers, assistants and service animals	No			
28.4 Accessible seats to be available for passengers with disabilities	No			
Part 29 – Food and drink services				100%
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes	
29.3 Space for passengers using mobility aids	No			
Part 30 – Belongings				
30.1 Disability aids to be in addition to baggage allowance	No			
Part 31 – Priority				100%
31.1 Priority seating	Yes			
31.2 Information to be provided about vacating priority seating	Yes			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.
Source:

D.3 Taxis

Table D.3

TAXI TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Transport Standard	Taxi travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes	
2.2 Continuous accessibility		Yes	Yes	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes	
2.4 Minimum unobstructed width		Yes	Yes	
2.5 Poles and obstacles, etc.		Yes	Yes	
2.6 Access paths – conveyances	No			
2.7 Minimum width between front wheel arches of bus	No			
2.8 Extent of path	No			
2.9 When an access path is not required	Yes			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes	
3.2 Access for passengers in wheelchairs	No			
3.3 Limited on-board manoeuvring	Yes			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes	
4.2 Two-way access paths and aerobridges		Yes	Yes	
4.3 Passing areas – conveyances	No			
Part 5 – Resting points				25%
5.1 When resting points must be provided		Yes	Yes	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes	
6.2 Boarding ramps	Yes			
6.3 Minimum allowed width	Yes			
6.4 Slope of external boarding ramps	Yes			
6.5 Slope of ramps connected to pontoon wharves			Yes	
Part 7 – Waiting areas				100%
7.1 Minimum numbers of seats to be provided		Yes	Yes	
7.2 Minimum number of allocated spaces to be provided		Yes	Yes	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes	
8.2 When boarding devices must be provided	Yes			
8.3 Use of boarding devices	Yes			

Transport Standard	Taxi travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
8.4 Hail-and-ride services	No			
8.5 Width and surface of boarding devices	Yes			
8.6 Maximum load to be supported by boarding device	Yes			
8.7 Signals requesting use of boarding device	No			
8.8 Notification by passenger of need for boarding device	No	Yes	Yes	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes	Yes	Yes	
9.2 Minimum number of allocated spaces to be provided	Yes			
9.3 Minimum head room	Yes			
9.4 Number of allocated spaces to be provided – buses	No			
9.5 Number of allocated spaces to be provided – ferries	No			
9.6 Number of allocated spaces to be provided – train cars, etc	No			
9.7 Consolidation of allocated space	No			
9.8 Allocated spaces in aircraft and coaches	No			
9.9 Use of allocated space for other purposes	No			
9.10 International symbol of accessibility to be displayed	No			
9.11 Movement of mobility aid in allocated space	No			
Part 10 – Surfaces				1 st target 2012
10.1 Compliance with Australian Standard	No	Yes	Yes	
Part 11 – Handrails and Grabrails				1 st target 2012
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
11.2 Handrails to be provided on access paths		Yes	Yes	
11.3 Handrails on steps	Yes			
11.4 Handrails above access paths	Yes			
11.5 Compliance with Australian Standard	Yes	Yes	Yes	
11.6 Grabrail to be provided where fares are to be paid	Yes	Yes	Yes	
11.7 Grabrails to be provided in allocated spaces	No			
Part 12 – Doorways and Doors				25%
12.1 Doors on access paths	Yes	Yes	Yes	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
12.3 Weight activated doors and sensors		Yes	Yes	
12.4 Clear opening of doorways	No			

Transport Standard	Taxi travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
12.5 Vertical height of doorways	Yes			
12.6 Automatic or power-assisted doors	Yes			
Part 13 – Lifts				25%
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
Part 14 – Stairs		Yes		25%
14.1 Stairs not to be the sole means of access	Yes	Yes	Yes	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes	
14.3 Compliance with Australian Standards – conveyances	No			
14.4 Compliance with Australian Design Rule 58 – conveyances	No			
Part 15 – Toilets				25%
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes	
15.2 Location of accessible toilets		Yes	Yes	
15.3 Unisex toilet – ferries and accessible rail cars	No			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	No			
15.5 Accessible toilet to be provided – aircraft	No			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100%
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	No			
16.5 Accessibility symbols to be visible on accessible doors	No			
Part 17 – Signs				100%
17.1 Height and illumination	Yes	Yes	Yes	
17.2 Location – premises and infrastructure		Yes	Yes	
17.3 Location – conveyances	No			
17.4 Destination signs to be visible from boarding point	No			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	Yes			

Transport Standard	Taxi travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			No	
18.4 Instalment at railway stations			No	
18.5 Instalment at wharves			No	
Part 19 – Alarms				100%
19.1 Emergency warning systems	Yes	Yes	Yes	
Part 20 – Lighting				100%
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	No			
20.3 Dimming	Yes			
Part 21 – Controls				25%
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
21.2 Passenger-operated devices for opening and closing doors	No			
21.3 Location of passenger-operated controls for opening and locking doors	No			
21.4 Signal devices for conveyances that stop on request	No			
Part 22 – Furniture and fitments				100%
22.1 Tables, benches, counters etc.		Yes	Yes	
22.2 Information desks, check-in counters, etc – airports		No		
22.3 Accessible sleeping berths – ferries and trains	No			
22.4 Accessible sleeping berths – ferries	No			
22.5 Accessible sleeping berths – trains	No			
22.6 Accessible berths to be connected to access path – ferries and trains	No			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes	
Part 24 – Gateways				1 st target 2012
24.1 Gateways and checkouts		Yes	Yes	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending		Yes	Yes	

Transport Standard	Taxi travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
machines				
Part 26 – Hearing augmentation – listening systems				100%
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	No			
Part 27 – Information				100%
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				
28.1 Notice of requirement for accessible travel	No			
28.2 Period of notice required for accessible travel	No			
28.3 Location of carers, assistants and service animals	No			
28.4 Accessible seats to be available for passengers with disabilities	No			
Part 29 – Food and drink services				100%
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes	
29.3 Space for passengers using mobility aids	No			
Part 30 – Belongings				
30.1 Disability aids to be in addition to baggage allowance	No			
Part 31 – Priority				
31.1 Priority seating	No			
31.2 Information to be provided about vacating priority seating	No			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.
Source:

D.4 Buses and coaches

Table D.4

BUS TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes	
2.2 Continuous accessibility		Yes	Yes	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes	
2.4 Minimum unobstructed width		Yes	Yes	
2.5 Poles and obstacles, etc.		Yes	Yes	
2.6 Access paths – conveyances	Yes			
2.7 Minimum width between front wheel arches of bus	Yes			
2.8 Extent of path	Yes			
2.9 When an access path is not required	No			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes	
3.2 Access for passengers in wheelchairs	Yes ^(a)			
3.3 Limited on-board manoeuvring	No			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes	
4.2 Two-way access paths and aerobridges		Yes	Yes	
4.3 Passing areas – conveyances	No			
Part 5 – Resting points				1 st target 2022
5.1 When resting points must be provided		Yes	Yes	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes	
6.2 Boarding ramps	Yes ^(a)			
6.3 Minimum allowed width	Yes ^(a)			
6.4 Slope of external boarding ramps	Yes ^(a)			
6.5 Slope of ramps connected to pontoon wharves			No	
Part 7 – Waiting areas				25%
7.1 Minimum numbers of seats to be provided		Yes	Yes	
7.2 Minimum number of allocated spaces to be provided		Yes	Yes	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes	
8.2 When boarding devices must be provided	Yes ^(a)			
8.3 Use of boarding devices	Yes ^(a)			

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
8.4 Hail-and-ride services	Yes ^{(a)(b)}			
8.5 Width and surface of boarding devices	Yes ^(a)			
8.6 Maximum load to be supported by boarding device	Yes ^(a)			
8.7 Signals requesting use of boarding device	Yes ^(a)			
8.8 Notification by passenger of need for boarding device	Yes ^(a)	Yes	Yes	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes ^(a)	Yes	Yes	
9.2 Minimum number of allocated spaces to be provided	No			
9.3 Minimum head room	No			
9.4 Number of allocated spaces to be provided – buses	Yes ^(a)			
9.5 Number of allocated spaces to be provided – ferries	No			
9.6 Number of allocated spaces to be provided – train cars, etc	No			
9.7 Consolidation of allocated space	Yes ^(a)			
9.8 Allocated spaces in aircraft and coaches	No			
9.9 Use of allocated space for other purposes	Yes ^(a)			
9.10 International symbol of accessibility to be displayed	Yes			
9.11 Movement of mobility aid in allocated space	Yes ^(a)			
Part 10 – Surfaces				1 st target 2012 for buses 25% bus stops
10.1 Compliance with Australian Standard	Yes ^(a)	Yes	Yes	
Part 11 – Handrails and Grabrails				1 st target 2012 for buses 25% bus stops
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
11.2 Handrails to be provided on access paths		Yes	Yes	
11.3 Handrails on steps	Yes ^(a)			
11.4 Handrails above access paths	Yes ^(a)			
11.5 Compliance with Australian Standard	Yes ^(a)	Yes	Yes	
11.6 Grabrail to be provided where fares are to be paid	Yes ^(a)	Yes	Yes	
11.7 Grabrails to be provided in allocated spaces	Yes ^(a)			
Part 12 – Doorways and Doors				25% for buses 1 st target 2022 for bus stops

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
12.1 Doors on access paths	Yes ^(a)	Yes	Yes	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
12.3 Weight activated doors and sensors		Yes	Yes	
12.4 Clear opening of doorways	Yes ^(a)			
12.5 Vertical height of doorways	No			
12.6 Automatic or power-assisted doors	Yes ^(a)			
Part 13 – Lifts				1 st target 2022
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	25%
Part 14 – Stairs		Yes		
14.1 Stairs not to be the sole means of access	Yes ^(a)	Yes	Yes	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes	
14.3 Compliance with Australian Standards – conveyances	No			
14.4 Compliance with Australian Design Rule 58 – conveyances	Yes ^(a)			
Part 15 – Toilets				1 st target 2022
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes	
15.2 Location of accessible toilets		Yes	Yes	
15.3 Unisex toilet – ferries and accessible rail cars	No			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	No			
15.5 Accessible toilet to be provided – aircraft	No			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100% for buses 25% for bus stops
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	Yes			
16.5 Accessibility symbols to be visible on accessible doors	No			
Part 17 – Signs				100% for buses 25% for bus stops
17.1 Height and illumination	Yes	Yes	Yes	

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
17.2 Location – premises and infrastructure		Yes	Yes	25%
17.3 Location – conveyances	Yes			
17.4 Destination signs to be visible from boarding point	Yes			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	No			
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	25%
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			Yes	
18.4 Instalment at railway stations			No	
18.5 Instalment at wharves			No	
Part 19 – Alarms				100% for buses 1 st target 2022 for bus stops
19.1 Emergency warning systems	Yes	Yes	Yes	100% for buses 25% for bus stops
Part 20 – Lighting				
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	Yes			
20.3 Dimming	Yes			25% for buses 1 st target 2022 for bus stops
Part 21 – Controls				
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
21.2 Passenger-operated devices for opening and closing doors	Yes			
21.3 Location of passenger-operated controls for opening and locking doors	Yes			
21.4 Signal devices for conveyances that stop on request	Yes			1 st target 2022
Part 22 – Furniture and fitments				
22.1 Tables, benches, counters etc.		Yes	Yes	
22.2 Information desks, check-in counters, etc – airports		No		
22.3 Accessible sleeping berths – ferries and trains	No			
22.4 Accessible sleeping berths – ferries	No			
22.5 Accessible sleeping berths – trains	No			

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
22.6 Accessible berths to be connected to access path – ferries and trains	No			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes	
Part 24 – Gateways				1 st target 2022
24.1 Gateways and checkouts		Yes	Yes	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending machines		Yes	Yes	
Part 26 – Hearing augmentation – listening systems				100% for buses 1 st target 2022 for bus stops
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	Yes			
Part 27 – Information				100% for buses 25% for bus stops
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				100%
28.1 Notice of requirement for accessible travel	Yes ^(c)			
28.2 Period of notice required for accessible travel	Yes ^(c)			
28.3 Location of carers, assistants and service animals	Yes ^(c)			
28.4 Accessible seats to be available for passengers with disabilities	Yes ^(c)			
Part 29 – Food and drink services				100% for buses 1 st target 2022 for bus stops
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes	
29.3 Space for passengers using mobility aids	No			
Part 30 – Belongings				
30.1 Disability aids to be in addition to baggage allowance	No			

Transport Standard	Bus travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 31 – Priority				100%
31.1 Priority seating	Yes			
31.2 Information to be provided about vacating priority seating	Yes			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.
(a) Except dedicated school buses and services. (b) Hail-and-ride services only. (c) Dial-a-ride services only. Source:

D.5 Air travel

Table D.5

AIR TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Transport Standard	Air travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes ^(a)	
2.2 Continuous accessibility		Yes	Yes ^(a)	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes ^(a)	
2.4 Minimum unobstructed width		Yes	Yes ^(a)	
2.5 Poles and obstacles, etc.		Yes	Yes ^(a)	
2.6 Access paths – conveyances	No			
2.7 Minimum width between front wheel arches of bus	No			
2.8 Extent of path	No			
2.9 When an access path is not required	Yes			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes ^(a)	
3.2 Access for passengers in wheelchairs	No			
3.3 Limited on-board manoeuvring	Yes ^(b)			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes ^(a)	
4.2 Two-way access paths and aerobridges		Yes	Yes ^(a)	
4.3 Passing areas – conveyances	No			
Part 5 – Resting points				25%
5.1 When resting points must be provided		Yes	Yes ^(a)	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes ^(a)	
6.2 Boarding ramps	Yes ^(b)			
6.3 Minimum allowed width	Yes ^(b)			
6.4 Slope of external boarding ramps	Yes ^(b)			
6.5 Slope of ramps connected to pontoon wharves			No	
Part 7 – Waiting areas				100%
7.1 Minimum numbers of seats to be provided		Yes	Yes ^(a)	
7.2 Minimum number of allocated spaces to be provided		Yes	Yes ^(a)	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes ^(a)	
8.2 When boarding devices must be provided	Yes ^(b)			
8.3 Use of boarding devices	Yes ^(b)			

Transport Standard	Air travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
8.4 Hail-and-ride services	No			
8.5 Width and surface of boarding devices	Yes ^(b)			
8.6 Maximum load to be supported by boarding device	Yes ^(b)			
8.7 Signals requesting use of boarding device	No			
8.8 Notification by passenger of need for boarding device	No	Yes	Yes ^(a)	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes ^(b)	Yes	Yes ^(a)	
9.2 Minimum number of allocated spaces to be provided	No			
9.3 Minimum head room	No			
9.4 Number of allocated spaces to be provided - buses	No			
9.5 Number of allocated spaces to be provided – ferries	No			
9.6 Number of allocated spaces to be provided – train cars, etc	No			
9.7 Consolidation of allocated space	No			
9.8 Allocated spaces in aircraft and coaches	Yes			
9.9 Use of allocated space for other purposes	No			
9.10 International symbol of accessibility to be displayed	No			
9.11 Movement of mobility aid in allocated space	No			
Part 10 – Surfaces				1 st target 2012
10.1 Compliance with Australian Standard	No	Yes	Yes ^(a)	
Part 11 – Handrails and Grabrails				1 st target 2012
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes ^(a)	
11.2 Handrails to be provided on access paths		Yes	Yes ^(a)	
11.3 Handrails on steps	Yes ^(b)			
11.4 Handrails above access paths	Yes ^(b)			
11.5 Compliance with Australian Standard	Yes ^(b)	Yes	Yes ^(a)	
11.6 Grabrail to be provided where fares are to be paid	Yes ^(b)	Yes	Yes ^(a)	
11.7 Grabrails to be provided in allocated spaces	No			
Part 12 – Doorways and Doors				25%
12.1 Doors on access paths	Yes ^(b)	Yes	Yes ^(a)	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes ^(a)	
12.3 Weight activated doors and sensors		Yes	Yes ^(a)	
12.4 Clear opening of doorways	No			

Transport Standard	Air travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
12.5 Vertical height of doorways	No			
12.6 Automatic or power-assisted doors	Yes ^(b)			
Part 13 – Lifts				25%
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes ^(a)	
Part 14 – Stairs		Yes		25%
14.1 Stairs not to be the sole means of access	Yes ^(b)	Yes	Yes ^(a)	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes ^(a)	
14.3 Compliance with Australian Standards – conveyances	No			
14.4 Compliance with Australian Design Rule 58 – conveyances	No			
Part 15 – Toilets				25%
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes ^(a)	
15.2 Location of accessible toilets		Yes	Yes ^(a)	
15.3 Unisex toilet – ferries and accessible rail cars	No			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	No			
15.5 Accessible toilet to be provided – aircraft	Yes ^(c)			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100%
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	No			
16.5 Accessibility symbols to be visible on accessible doors	No			
Part 17 – Signs				100%
17.1 Height and illumination	Yes	Yes	Yes	
17.2 Location – premises and infrastructure		Yes	Yes	
17.3 Location – conveyances	No			
17.4 Destination signs to be visible from boarding point	No			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	No			

Air travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			No	
18.4 Instalment at railway stations			No	
18.5 Instalment at wharves			No	
Part 19 – Alarms				100%
19.1 Emergency warning systems	Yes	Yes	Yes	
Part 20 – Lighting				100%
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	No			
20.3 Dimming	Yes			
Part 21 – Controls				25%
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes ^(a)	
21.2 Passenger-operated devices for opening and closing doors	No			
21.3 Location of passenger-operated controls for opening and locking doors	No			
21.4 Signal devices for conveyances that stop on request	No			
Part 22 – Furniture and fitments				100%
22.1 Tables, benches, counters etc.		No	No	
22.2 Information desks, check-in counters, etc – airports		Yes	Yes	
22.3 Accessible sleeping berths – ferries and trains	No			
22.4 Accessible sleeping berths – ferries	No			
22.5 Accessible sleeping berths – trains	No			
22.6 Accessible berths to be connected to access path – ferries and trains	No			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes ^(a)	
Part 24 – Gateways				1 st target 2012
24.1 Gateways and checkouts		Yes	Yes ^(a)	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending		Yes	Yes ^(a)	

Transport Standard	Air travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
machines				
Part 26 – Hearing augmentation – listening systems				100%
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	No			
Part 27 – Information				100%
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				100%
28.1 Notice of requirement for accessible travel	Yes			
28.2 Period of notice required for accessible travel	No			
28.3 Location of carers, assistants and service animals	Yes			
28.4 Accessible seats to be available for passengers with disabilities	Yes			
Part 29 – Food and drink services				100%
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes ^(a)	
29.3 Space for passengers using mobility aids	No			
Part 30 – Belongings				100%
30.1 Disability aids to be in addition to baggage allowance	Yes			
Part 31 – Priority				100%
31.1 Priority seating	No			
31.2 Information to be provided about vacating priority seating	No			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.
(a) Except airports that do not accept regular public transport services. (b) Except small aircraft. (c) Wide-body twin-aisle aircraft only.

D.6 Ferries

Table D.6

FERRY TRAVEL: RELEVANT TRANSPORT STANDARDS AND COMPLIANCE REQUIREMENTS

Transport Standard	Ferry travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 2 – Access paths				25%
2.1 Unhindered passage		Yes	Yes	
2.2 Continuous accessibility		Yes	Yes	
2.3 Path branching into 2 or more parallel tracks		Yes	Yes	
2.4 Minimum unobstructed width		Yes	Yes	
2.5 Poles and obstacles, etc.		Yes	Yes	
2.6 Access paths – conveyances	Yes			
2.7 Minimum width between front wheel arches of bus	No			
2.8 Extent of path	Yes			
2.9 When an access path is not required	No			
Part 3 – Manoeuvring areas				25%
3.1 Circulation space for wheelchairs to turn in		Yes	Yes	
3.2 Access for passengers in wheelchairs	Yes			
3.3 Limited on-board manoeuvring	No			
Part 4 – Passing areas				25%
4.1 Minimum width		Yes	Yes	
4.2 Two-way access paths and aerobridges		Yes	Yes	
4.3 Passing areas – conveyances	Yes			
Part 5 – Resting points				25%
5.1 When resting points must be provided		Yes	Yes	
Part 6 – Ramps				25%
6.1 Ramps on access paths		Yes	Yes	
6.2 Boarding ramps	Yes			
6.3 Minimum allowed width	Yes			
6.4 Slope of external boarding ramps	Yes			
6.5 Slope of ramps connected to pontoon wharves			Yes	
Part 7 – Waiting areas				100%
7.1 Minimum numbers of seats to be provided		Yes	Yes	
7.2 Minimum number of allocated spaces to be provided		Yes	Yes	
Part 8 – Boarding				25%
8.1 Boarding points and kerbs		Yes	Yes	
8.2 When boarding devices must be provided	Yes			
8.3 Use of boarding devices	Yes			

Ferry travel				
Transport Standard	Conveyance	Premises	Infrastructure	Compliance by 31/12/2007
8.4 Hail-and-ride services	No			
8.5 Width and surface of boarding devices	Yes			
8.6 Maximum load to be supported by boarding device	Yes			
8.7 Signals requesting use of boarding device	Yes			
8.8 Notification by passenger of need for boarding device	Yes	Yes	Yes	
Part 9 – Allocated space				25%
9.1 Minimum size for allocated space	Yes	Yes	Yes	
9.2 Minimum number of allocated spaces to be provided	No			
9.3 Minimum head room	No			
9.4 Number of allocated spaces to be provided – buses	No			
9.5 Number of allocated spaces to be provided – ferries	Yes			
9.6 Number of allocated spaces to be provided – train cars, etc	No			
9.7 Consolidation of allocated space	Yes			
9.8 Allocated spaces in aircraft and coaches	No			
9.9 Use of allocated space for other purposes	Yes			
9.10 International symbol of accessibility to be displayed	No			
9.11 Movement of mobility aid in allocated space	No			
Part 10 – Surfaces				1 st target 2012
10.1 Compliance with Australian Standard	Yes	Yes	Yes	
Part 11 – Handrails and Grabrails				1 st target 2012
11.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
11.2 Handrails to be provided on access paths		Yes	Yes	
11.3 Handrails on steps	Yes			
11.4 Handrails above access paths	Yes			
11.5 Compliance with Australian Standard	Yes	Yes	Yes	
11.6 Grabrail to be provided where fares are to be paid	Yes	Yes	Yes	
11.7 Grabrails to be provided in allocated spaces	Yes			
Part 12 – Doorways and Doors				25%
12.1 Doors on access paths	Yes	Yes	Yes	
12.2 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
12.3 Weight activated doors and sensors		Yes	Yes	
12.4 Clear opening of doorways	Yes			

Transport Standard	Ferry travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
12.5 Vertical height of doorways	No			
12.6 Automatic or power-assisted doors	Yes			
Part 13 – Lifts				25%
13.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
Part 14 – Stairs		Yes		25%
14.1 Stairs not to be the sole means of access	Yes	Yes	Yes	
14.2 Compliance with Australian Standards – premises and infrastructure		Yes	Yes	
14.3 Compliance with Australian Standards – conveyances	Yes			
14.4 Compliance with Australian Design Rule 58 – conveyances	No			
Part 15 – Toilets				25%
15.1 Unisex accessible toilet – premises and infrastructure		Yes	Yes	
15.2 Location of accessible toilets		Yes	Yes	
15.3 Unisex toilet – ferries and accessible rail cars	Yes			
15.4 Requirements for accessible toilets – ferries and accessible rail cars	Yes			
15.5 Accessible toilet to be provided – aircraft	No			
15.6 Stops to be provided if accessible toilet not provided – coaches	No			
Part 16 – Symbols				100%
16.1 International symbols for accessibility and deafness	Yes	Yes	Yes	
16.2 Compliance with AS2899.2 (1986)	Yes	Yes	Yes	
16.3 Accessibility symbols to incorporate directional arrows	Yes	Yes	Yes	
16.4 Accessibility symbol to be visible on accessible buses	No			
16.5 Accessibility symbols to be visible on accessible doors	Yes			
Part 17 – Signs				100%
17.1 Height and illumination	Yes	Yes	Yes	
17.2 Location – premises and infrastructure		Yes	Yes	
17.3 Location – conveyances	Yes			
17.4 Destination signs to be visible from boarding point	Yes			
17.5 Electronic notices		Yes	Yes	
17.6 Raised lettering or symbols or use of Braille	Yes	Yes	Yes	
17.7 Taxi registration numbers	No			

Transport Standard	Ferry travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
Part 18 – Tactile ground surface indicators				25%
18.1 Location		Yes	Yes	
18.2 Style and dimensions		Yes	Yes	
18.3 Instalment at accessible bus boarding points			No	
18.4 Instalment at railway stations			No	
18.5 Instalment at wharves			Yes	
Part 19 – Alarms				100%
19.1 Emergency warning systems	Yes	Yes	Yes	
Part 20 – Lighting				100%
20.1 Illumination levels – premises and infrastructure		Yes	Yes	
20.2 Illumination levels – conveyances	Yes			
20.3 Dimming	Yes			
Part 21 – Controls				25%
21.1 Compliance with Australian Standard – premises and infrastructure		Yes	Yes	
21.2 Passenger-operated devices for opening and closing doors	Yes			
21.3 Location of passenger-operated controls for opening and locking doors	Yes			
21.4 Signal devices for conveyances that stop on request	No			
Part 22 – Furniture and fitments				100%
22.1 Tables, benches, counters etc.		Yes	Yes	
22.2 Information desks, check-in counters, etc – airports		No		
22.3 Accessible sleeping berths – ferries and trains	Yes			
22.4 Accessible sleeping berths – ferries	Yes			
22.5 Accessible sleeping berths – trains	No			
22.6 Accessible berths to be connected to access path – ferries and trains	Yes			
Part 23 – Street furniture				25%
23.1 Seats		Yes	Yes	
Part 24 – Gateways				1 st target 2012
24.1 Gateways and checkouts		Yes	Yes	
Part 25 – Payment of fares				1 st target 2022
25.1 Passengers to pay fares	Yes	Yes	Yes	
25.2 Fare payment and ticket validation systems	Yes	Yes	Yes	
25.3 Vending machines	Yes	Yes	Yes	
25.4 Circulation space in front of vending		Yes	Yes	

Transport Standard	Ferry travel			Compliance by 31/12/2007
	Conveyance	Premises	Infrastructure	
machines				
Part 26 – Hearing augmentation – listening systems				100%
26.1 Public address systems – premises and infrastructure		Yes	Yes	
26.2 Public address systems – conveyances	Yes			
Part 27 – Information				100%
27.1 Access to information about transport services	Yes	Yes	Yes	
27.2 Direct assistance to be provided	Yes	Yes	Yes	
27.3 Size and format of printing	Yes	Yes	Yes	
27.4 Access to information about location	Yes			
Part 28 – Booked services				100%
28.1 Notice of requirement for accessible travel	Yes			
28.2 Period of notice required for accessible travel	Yes			
28.3 Location of carers, assistants and service animals	Yes			
28.4 Accessible seats to be available for passengers with disabilities	Yes			
Part 29 – Food and drink services				100%
29.1 Equal access to food and drink services	Yes	Yes	Yes	
29.2 Distance around accessible tables		Yes	Yes	
29.3 Space for passengers using mobility aids	Yes			
Part 30 – Belongings				100%
30.1 Disability aids to be in addition to baggage allowance	Yes			
Part 31 – Priority				100%
31.1 Priority seating	Yes			
31.2 Information to be provided about vacating priority seating	Yes			

Notes: Shaded areas reflect where the specific element of the Transport Standard is not relevant to conveyances, premises or infrastructure.

Appendix E

Assessment of remaining issues for each Part of the Transport Standards

The Terms of Reference for this review require an assessment of each Part of the Transport Standards. Many Parts of the Transport Standards have been assessed in the analysis in the preceding chapters of this report. This appendix provides a breakdown of remaining issues raised for each of Part of the Transport Standards, including those specific aspects of the Transport Standards covered by the ARA exemption application.

For several Parts, little or no stakeholder feedback was received, and the review team considers that there is no required amendment or change of approach.

Part 1: Preliminary

Part 1.11 — Assistance animals

The term “assistance dog” will need to be uniformly used throughout the document.

There is no definition in the Standards to differentiate a service / assistance animal from a therapy animal or pet. Relevant clauses are brought across from the Guidelines and to pick up HREOC recommendations contained in its report following consultations on Section 9 (1) (f) of the Disability Discrimination Act (18 November 2003). (ARA, 2006)

Part 1.15 — ARA Submission: disability aids

Although there is reference in the Standards to disability aids, there is no definition of what this term means or includes. Due to safety, operational and space constraints, disability and mobility aids, as opposed to transport vehicles / devices, must be defined in relation to the alleviation of a disability on a transport service.

Devices carrying more than one person, or devices that are essentially vehicles rather than a personal aid essential to alleviate a disability, are not suitable and often not safe on trains and stations. This wording extracts relevant clauses from the Guidelines and brings them across to the Standards to provide increased certainty for passengers and operators/providers.

For the occupational health and safety of both passenger and crew, train crew are unable to assist with the assembly or disassembly of disability aids. Staff on booked services are able to assist by folding a manual wheelchair for a passenger wanting to transfer to a seat and store the chair with the passenger in the seating / sleeping compartment, however they are unable to take aids apart for storage. (ARA, 2006)

Part 1.18 — ARA Submission: infrastructure

To make the definition of infrastructure clearer so that structures within the rail corridor that are unrelated to provision of public transport services are not subject to compliance requirements. (ARA, 2006)

Part 1.19 — ARA Submission: mobility aids

Although there is reference in the Standards to mobility aids, there is no definition of what this term means. Mobility aids, as opposed to transport vehicles / devices, must be defined in relation to the alleviation of a disability on a transport service. Devices carrying more than one person, or devices that are essentially vehicles rather than a personal aid essential to alleviate a disability, are unsuitable and often unsafe on trains and stations. The maximum size of a mobility aid must also be included within the Standards to apply to all clauses and not just allocated space, due to the finite dimensions of track width and gauge, track corridor width and height of overhead wiring.

Most States provide an integrated ticketing system for bus, rail and ferry. For consistency clause 2.7 (width between wheel arches on buses) is the common constraint. (ARA, 2006)

Part 1.21 — ARA Submission: premises

To better define premises with reference to clause 1.18.

The infrastructure in the rail environment is unique and often constrained in size and function by the location of rail tracks. It is sometimes not possible or relevant for the features on open rail platforms or footbridges to comply with requirements for ‘premises’. (ARA, 2006)

Review conclusions

No recommendations of amendments for this Part

Part 2: Access Paths

Stakeholder comments received on this Part

People with vision impairments noted that Part 2.1 requires an access path be ‘unhindered’ by stairs however, they consider this provision should specify that the access path be ‘clearly defined’ so that there are no pedestal and head high obstacles in the path (sub. 49, pp. 12-13).

The ARA sought exemptions in relation to access paths, in reference to Parts 2.1, 2.2, 2.4, 2.5, 2.6, and 2.8. The AHRC granted exemptions for a period of three years to the ARA for Parts 2.1 and 2.4. The exemptions for Part 2.6 were separated into those that had been granted a period of two years and those that had been granted a period of three.

Review conclusion

The review supports the amendment from unhindered to clearly defined in the Transport Standards

Part 3: Manoeuvring Areas

Stakeholder comments received on this Part

One consumer with a mobility impairment noted that although Parts 3.2 and 3.3 provide for direct assistance where independent manoeuvring is not possible, direct assistance would be impossible in small spaces as the space would need to accommodate the assistant as well as the mobility aid. As such, he recommends a new clause be added to Part 3 to require sufficient circulation to be provided at the approach to a narrow passageway within a conveyance to allow for assisted access (sub. 78, p. 2).

The ARA sought an exemption in relation to manoeuvring areas, in reference to Part 3.1. This exemption was granted by the AHRC, for a period of three years.

Review conclusion

No recommended amendment

Part 4: Passing Areas**Stakeholder comments received on this Part**

The ARA sought exemptions in relation to passing areas, in reference to Parts 4.1, 4.2, and 4.3. The AHRC granted an exemption for a period of three years to the ARA for Part 4.2.

Review conclusions

No amendment recommended beyond the consideration of the ARA exemption through the technical review

Part 5: Resting Points**Stakeholder comments received on this Part**

As noted in Chapter 8, there is a technical issue with the specification of when resting points must be provided for airports.

The ARA sought an exemption in relation to resting points, in reference to Part 5.1, which pertains to when resting points must be provided. In particular, the application for the exemption was to ensure greater consistency with other Parts of the Transport Standards, and a greater clarification of obligations. This exemption was granted by the AHRC, for a period of three years.

Review conclusions

Recommendation to amend Part to account for safety at airports.

Part 6: Ramps**Stakeholder comments received on this Part**

A number of people with disability consider that 1:4 slopes on boarding ramps for assisted access, as allowed in Part 6.4(c), are unsafe and that the maximum steepness should be 1:8, with 1:14 the preferred slope (sub. 88, p. 2).

Max Murray recommended in his submission that Part 6.4 be amended to prescribe that a 1:14 slope be achieved 80 per cent of the time (sub. 78, p. 2). It was also noted in his submission that Part 6.5 was ambiguous and should be reworded. (sub. 78, p. 3)

The ARA sought exemptions in relation to ramps, in reference to Parts 6.1, 6.2, and 6.3. The AHRC did not grant the ARA any exemptions in relation to this Part.

Review conclusions

Further technical assessment is required on the safety of 1:4 ramps given the weight of mobility aids and OHS considerations, as recommended in Chapter 12.

Part 7: Waiting Areas

Stakeholder comments received on this Part

No comment was made that directly referred to this Part.

Review conclusions

No amendments recommended

Part 8: Boarding

Stakeholder comments received on this Part

As noted in Chapter 8, there is a technical issue with the specification of the width of a boarding device for aircraft (Part 8.5).

The Disability Discrimination Legal Centre recommended that Part 8.2 be amended to require operators to take measures to address the barrier to access posed by boarding gaps by:

- (a) Deleting the reference to “accessible” entrance in Standard 8.2 and
- (b) Requiring that within six months of the relevant amendment, where there is a horizontal gap or vertical rise in excess of those specified in Standard 8.2, all conveyances must provide a boarding device at a minimum of one entrance per conveyance. (Sub. 25, p. 8)

The ARA sought exemptions in relation to boarding, in reference to Parts 8.1, 8.2, 8.5, 8.6, 8.7 and 8.8. The AHRC granted exemptions for a period of three years to the ARA for Parts 8.5, 8.7 and 8.8.

Review conclusions

The review recommends that the requirements for the width of boarding devices for aircraft be reviewed, with a view to including an allowance for aircraft dimensions in the Transport Standards.

Part 9: Allocated space

Stakeholder comments received on this Part

As noted in Chapter 8, there is a technical issue with the specification of the wheelchair space (Part 9.1).

The Disability Discrimination Legal Centre proposes in their submission that Part 9.1 should be amended to required operators to carry the wheelchair or similar mobility aid of any passenger which fits within the minimum allocated space set down under this Part.

In addition, several consumers noted that the minimum headroom target specified in Part 9.3 for 2013, should be brought forward.

The ARA sought exemptions to Parts 9.1, 9.6, 9.7 and 9.10. The AHRC granted exemptions for a period of three years to the ARA for Parts 9.1 and 9.10.

Review conclusions

The review recommends that the Transport Standards be amended to require a three dimensional allocated space in accessible taxis.

Part 10: Surfaces***Stakeholder comments received on this Part***

The Association in Consultants for Access Australia (ACAA) recommends that Part 10.1 be amended to include the wheelchair seating areas in taxis. (sub 88, p. 2)

The ARA sought an exemption to Part 10.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

No recommendations of amendments for this Part

Part 11: Handrails and Grabrails***Stakeholder comments received on this Part***

The ARA sought exemptions to Parts 11.1, 11.2, 11.3, 11.4, 11.5, 11.6 and 11.7. The AHRC granted an exemption for a period of three years to the ARA for Part 11.2.

Review conclusions

No recommendations of amendments for this Part

Part 12: Doorways and doors***Stakeholder comments received on this Part***

Max Murray considers that the exception of Clause 11.5.2 of AS1428.2 (1992) under Part 12.2 should be removed and that the vertical door height target in Part 12.5 (2) for 2013 be brought forward. In addition, he recommends an additional clause to require a minimum head height of 1500mm along the direct path of travel from the entry door to the allocated space (Sub.78, pp. 4-5).

The ARA sought exemptions to Parts 12.1, 12.2, 12.3 and 12.4. The AHRC granted exemptions for a period of three years to the ARA for Parts 12.2 and 12.4.

Review conclusions

No recommendations of amendments for this Part

Part 13: Lifts***Stakeholder comments received on this Part***

The ARA sought an exemption to Part 13.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

No recommendations of amendments for this Part

Part 14: Stairs***Stakeholder comments received on this Part***

A number of people with vision impairments noted that there are conflicting requirements for stair nosing in the two Australian Standards referenced in Part 14 of the Transport Standards. In addition, one consumer notes in line with drafts of new Australian Standards, stair nosing should not extend over and down the riser and recommends that Part 14 be amended to reflect this (sub.78, p. 4).

The ARA sought exemptions to Parts 14.1 and 14.3. The AHRC granted exemptions for a period of three years to the ARA for both these Parts.

Review conclusions

The review recommends that the requirements of stair nosing being revised to remove inconsistencies between Australian Standards and the Transport Standards.

Part 15: Toilets***Stakeholder comments received on this Part***

The ARA sought exemptions to Parts 15.1, 15.2, 15.3 and 15.4. The AHRC granted exemptions for a period of three years to the ARA for all of these Parts.

Review conclusions

No recommendations of amendments for this Part

Part 16: Symbols***Stakeholder comments received on this Part***

The ARA sought exemptions to Parts 16.2, 16.3 and 16.5. The AHRC did not grant the ARA an exemption in relation to any of these Parts.

Review conclusions

No recommendations of amendments for this Part

Part 17: Signs***Stakeholder comments received on this Part***

An airline operator raised in their submission that Part 17.1 is cost-prohibitive and impractical for air conveyances as all signage within an aircraft must comply with airworthiness standards. To comply, an airline would have to get an extensive and costly Electrical Load Analysis for each individual aircraft (sub. 65, p. 4 — Confidential).

People with vision impairments consider that Part 17.6 should require tactile signage in a number of scenarios including toilet doors and bus stops, rather than just prescribing the location *if* provided (sub. 49, p. 8; sub. 12, p. 6).

As noted in Chapter 10, people with vision impairments consider that Part 17.7 should require a consistent profile for raised lettering on taxis. Further, Blind Citizens Australia (sub. 12, p. 6) consider that taxi registration numbers should be placed on the inside of taxis as well as on the exterior door.

The ARA sought exemptions to Parts 17.4, 17.5 and 17.6. The AHRC granted exemptions for a period of three years to the ARA for Parts 17.5 and 17.6.

Review conclusions

The review recommends that the Transport Standards be amended to require raised taxi numbers on the inside as well as exterior door of accessible taxis.

Part 18: Tactile ground surface indicators

Stakeholder comments received on this Part

As noted in Chapter 10, several stakeholders raised issues with the use of outdated Australian Standards in relation to TGSIs. However, one consumer with a mobility impairment considers that the 2002 Australian Standards for TGSIs should be adopted with the exception of the use of TGSIs on any sloping path for the safety of people using mobility aids (sub. 78, p. 5).

The Royal Society for the Blind and Blind Citizens Australia both raised concerns in their submissions with regards to Part 18. The Royal Society for the Blind (sub. 5, p. 1) recommended that Parts 18.1 and 18.2 be expanded to include conveyances with internal stairwells, such as double story buses. Blind Citizens Australia's also recommend that the use of TGSIs in conveyances be considered. Additionally, Blind Citizens Australia consider

- the term 'change of direction' is ambiguous, Part 18.1 should be made less ambiguous by clarifying which type of TGSIs should be used and when and
- the term 'colour contrast' in Part 18.3 does not adequately regulate their appearance with respect to luminance contrast levels and
- any area covered by TGSIs constitutes an access path for people with vision impairments and should be subject to the same provisions as applied to access paths in Part 2. (sub. 12, p. 5)

The ARA sought exemptions to Parts 18.1, 18.2 and 18.4. The AHRC granted exemptions for a period of three years to the ARA for Parts 18.1 and 18.2.

Review conclusions

The review recommends that the Transport Standards be amended to include luminance contrast requirements rather than colour-contrast requirements.

Part 19: Alarms

Stakeholder comments received on this Part

Blind Citizens Australia (sub. 12, p. 8) consider that Part 19.1 (2) should be more specific in stipulating the provision of tactile maps and audio signals to identify exits and well developed evacuation plans.

An airline operator noted that emergency warning systems were prescribed in aircraft certification and were under the control of the certifying Airworthiness Authority and CASA. (sub. 65, p. 4 — Confidential).

The ARA sought an exemption to Part 19.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

The review recommends that the Transport Standards be amended to require tactile maps and audio signals to identify exits.

Part 20: Lighting

Stakeholder comments received on this Part

As noted in Chapter 8, there is a technical issue with the specification of illumination levels for train and tram infrastructure (Part 20.1). The ARA's application to be exempt from Part 20.1 was granted for a period of three years.

An airline operator noted that illumination within an aircraft is prescribed in aircraft certification. (sub. 65, p. 4 — Confidential).

Review conclusions

The review recommends that the Transport Standards be amended to be consistent with the new standards for lighting at train and tram stations developed by the ARA.

Part 21: Controls

Stakeholder comments received on this Part

The ARA sought exemptions to Parts 21.1, 21.2 and 21.3. The AHRC granted an exemption for a period of three years to the ARA for Part 21.1.

Review conclusions

No recommendations on this Part

Part 22: Furniture and fitments

Stakeholder comments received on this Part

The ARA sought exemptions to Parts 22.1 and 22.5. The AHRC did not grant the ARA an exemption in relation to any of these Parts.

Review conclusions

No recommendations on this Part.

Part 23: Street furniture***Stakeholder comments received on this Part***

The ARA sought an exemption to Part 23.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

No recommendations on this Part.

Part 24: Gateways***Stakeholder comments received on this Part***

The ARA sought an exemption to Part 24.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

No recommendations on this Part.

Part 25: Payment of fares***Stakeholder comments received on this Part***

The ARA sought exemptions to Parts 25.3 and 25.4. The AHRC did not grant the ARA an exemption in relation to any of these Parts.

Review conclusions

No recommendations on this Part.

Part 26: Hearing augmentation – listening systems***Stakeholder comments received on this Part***

As noted in Chapter 8, some public transport operators noted that there are technical issues with the use of hearing augmentation and public address systems (Part 26.1 and 26.2).

An airline operator noted that public address systems are prescribed in aircraft certification.

The ARA sought an exemption to Part 26.2. The AHRC granted an exemption for this Part for a period of three years.

Review conclusions

No recommendations on this Part.

Part 27: Information

Stakeholder comments received on this Part

As noted in Chapter 8 and 10, a number of disability groups considered that Part 27.1 does not provide sufficient guidance or prescription and that electronic provision of information should be specifically addressed.

In particular, a number of people with vision impairments consider that Part 27.4 should require public transport operators to provide information about location on all conveyances including specifying when and how this information should be provided (instead of the current requirement to provide *the same level of access*).

The ARA sought exemptions to Parts 27.1, 27.2, 27.3 and 27.4. The AHRC granted exemptions for a period of three years to the ARA for Parts 27.2 and 27.3.

Review conclusions

No recommendations on this Part.

Part 28: Booked services

Stakeholder comments received on this Part

Some airline operators consider that Part 28.1 should be amended to enable operators 'require' advance notice rather than 'request' advance notice for passengers that require assistance or are travelling with disability aids, allowing them to refuse boarding to passengers that have not provided advance warning (sub. 35, pp. 5-7).

The Association for Access Consultants (sub. 88, p.1) considers that Part 28.4 should specify what comprises 'accessible seats' for aircraft to ensure that people with a mobility impairment are allocated seating with flip-up arm rests to allow smooth transition.

The ARA sought exemptions to Parts 28.1, 28.2 and 28.3. The AHRC granted exemptions for a period of three years to the ARA for Parts 28.1 and 28.2.

Review conclusions

No recommendations on this Part.

Part 29: Food and drink services

Stakeholder comments received on this Part

The ARA sought an exemption to Part 29.1 on the basis of rail operators not being able influence the accessibility of food and drink services at train stations. The AHRC granted exemptions for a period of three years to the ARA for Part 29.1. In their submission to this review the ARA sought to have this exemption made as an amendment to the Transport Standards. This is also an issue for coach operators who currently stop at roadhouses and petrol stations for meal stops. (sub 17, p. 17)

Review conclusions

No recommendations on this Part.

Part 30: Belongings

Stakeholder comments received on this Part

As noted in Chapter 8, airline operators considered Part 30.1 (1) to be too broad as it does not specify a maximum weight and size for disability aids, or a limit on the number of disability aids.

The ARA sought an exemption to Part 30.1. The AHRC did not grant the ARA an exemption in relation to this Part.

Review conclusions

The review recommends that the Transport Standards be amended to include maximum weight limits for mobility aids on aircraft, and a limit on the number of mobility aids that can be carried on aircraft.

Part 31: Priority

Stakeholder comments received on this Part

The ARA sought an exemption to Part 31.1. The AHRC granted an exemption for this Part for a period of three years.

Review conclusions

No recommendations on this Part.

*Appendix F***Temporary exemptions**

Table F.7

TEMPORARY EXEMPTIONS FROM DISABILITY STANDARDS FOR TRANSPORT

Organisation	Year	Purpose	AHRC Decision
Australian Railway Association	2007	<p>To permit deferral from the DSAPT including one temporary exemption within the following areas</p> <ul style="list-style-type: none"> • access paths — unhindered passage (two temporary exemptions) • access paths — minimum unobstructed width (two temporary exemption, one for 2 years only) • access paths — conveyances • manoeuvring areas — circulation space for wheelchairs to turn in • passing areas — two-way access paths and aerobridges • resting points — when resting point may be provided • boarding — when boarding devices must be provided • boarding — width and surface of boarding devices (two temporary exemptions) • boarding — signals requesting use of boarding device • allocated space — minimum size for allocated space • allocated space — international symbol for accessibility to be displayed (two temporary exemptions) • handrails and grabrails — handrails to be provided on access paths • doorways and doors — compliance with Australian Standard premises and infrastructure • doorways and doors — clear opening of doors • stairs — stairs not to be sole means for access • stairs — compliance with Australian standards conveyances • toilets — unisex accessible toilet premises and infrastructure 	<p>35 exemptions were granted for 3 years and 1 exemption granted for 2 years. However 36 other proposed exemptions were not granted by the AHRC. An additional 26 proposed temporary exemptions have not yet been decided.</p>

		<ul style="list-style-type: none"> • toilets — location of accessible toilets • toilets — unisex accessible toilet — ferries and accessible rail cars • signs — electronic notices • signs — raised lettering or symbols or use of Braille • tactile ground surface indicators — location • tactile ground surface indicators — style and dimensions • lighting — illumination levels — premises and infrastructure (two temporary exemptions) • controls — compliance with Australian standards — premises and infrastructure • hearing augmentation — listening systems — public address systems • information — direct assistance to be provided • information — size and format of printing • booked services — notice of requirement for accessible travel • booked services — period of notice of requirement for accessible travel and • priority — priority seating. 	
Hervey Bay RSL	2007	To permit deferral of provision of wheelchair access on courtesy buses operated by the Hervey Bay RSL Club Ltd.	Exemption granted for 10 months to 31 March 2008.
Airport Direct	2006	To permit deferral of provision of wheelchair access on a public transport service known as Airport Direct operating from Shepparton to Melbourne.	Exemption granted for 3 months to 31 March 2008 (exemption was refused earlier in 2006).
Department of Infrastructure Victoria	2006	To permit deferral from any provisions of the DSAPT which would prevent use of physically inaccessible buses (currently in use as dedicated school buses) for a trial of more general public transport services to operate between Daylesford and Ballan and between Mt Egerton and Ballan.	Exemption not granted
AirNorth	2006 and 2003	<p>To permit deferral from the DSAPT, including</p> <ul style="list-style-type: none"> • Lack of access to aircraft seats for people requiring wheelchair access, where this is prevented by limited aisle width • Lack of access to aircraft or seats for passengers requiring lifting, where this cannot be performed in compliance with the requirements of applicable occupational health and safety laws due to space constraints of the particular aircraft and • Imposition on intending passengers of requirements for notice of disability 	Exemption granted for two years on both occasions.

		access needs, where the notice required is reasonable in the circumstances.	
Bendigo Tram Service	2005	To permit exemption from sections 23 and 24 of the DDA and the DSAPT, in so far as those provisions would prevent installation of one tram stop using kerb side boarding, for a period of three years.	Exemption granted for 3 years with a condition that the applicants report to the Commission within 12 months on options for providing access where kerbside boarding is used, including through modification of tram vehicles to provide lifts or hoists.
Coffs Harbour to Sydney Tour and Travel Service.	2004	To permit exemption from sections 23 and 24 of the DDA and the DSAPT insofar as they would prohibit operation of a public transport and tour service with a new vehicle lacking wheelchair access, until 1 December 2007.	Exemption granted for 3 years to 1 December 2007.
Buchan Bus 'n Freight	2004	To permit exemption from the DSAPT in relation to acquisition and use of a second hand bus for public transport service, to the extent that those Standards require compliance by vehicles newly entering public transport service.	Exemption granted for 2 years to 8 January 2006.

Source: Human Rights and Equal Opportunity Commission (HREOC), Disability Homepage.

Appendix G

Regulatory impact assessment of key issues — systemic issues

This appendix provides an analysis of the key issues/problems within the framework of Best Practice Regulatory Assessment as prescribed by the Office of Best Practice Regulation (OBPR). The purpose of this appendix is to fulfil the obligations of this review to meet requirements for a Regulation Impact Statement (RIS), as discussed in Chapter 11 of this report.

For each issue set out below, the need for a RIS assessment is determined, and where this is required, the components of a RIS analysis are provided.

The Best Practice Guide for Regulation states that if only non-regulatory options are being considered, no further regulatory analysis is required. However, if a regulatory option is being considered, a preliminary analysis of the likely impacts is required. From this preliminary analysis, a determination is made on the need for a Business Compliance Cost analysis or RIS analysis on the regulatory proposal.

Issue 1: Availability of information on compliance with the Transport Standards

Step 1: Analysis of the problem — is regulation being considered?

Chapters 7 and 11 of this report describe the lack of standard compliance reporting on the Transport Standards, including information on accessibility. The key aspects of this problem are:

- the lack of reporting on accessibility constrains the capacity of reviews, such as this one, to assess the effectiveness of the Transport Standards;
- it also limits the efficiency and effectiveness of the complaints-based approach to compliance; and
- it has the potential to create a disincentive for non-compliant parties from reporting on accessibility.

Furthermore, a lack of standard compliance reporting means that people with disability have limited awareness of accessibility, which limits their ability to monitor non-compliant parties and proceed with complaints. The current arrangements are therefore creating an information asymmetry, leading to a poor regulatory outcome.

Options to address the problem

Three options considered by this review:

- Option 1: Status Quo — maintain current arrangements;
- Option 2: Mandatory compliance reporting by business, as tested in the Draft Report; or

- Option 3: Standardise Action plans and require annual reporting in a consistent format by the Commonwealth, State and Territory governments (as appropriate).

Option 2 was proposed to stakeholders in the Draft Report, but not recommended through to final report because it was found to not be technically feasible, and not capable of providing appropriate information (primarily because the determination of *compliance* with the Transport Standards is a legal determination). In light of this feedback from stakeholders, Option 3 is the option progressed in the analysis in this Final report.

Option 3 is based on the existing framework for Action Plan reporting (which reports both current and planned accessibility upgrades and projects), but seeks to improve this process by requiring consistent reporting of Action Plans annually. This would be the responsibility of State and Territory governments, and the Commonwealth governments where there are modes of transport that do not fit well within State and Territory responsibilities. Action Plans can continue to be completed on a voluntary basis by private transport providers, who should be encouraged to use the Action Plan framework established by government.

Option 3 is not necessarily a regulatory option, as it would be an obligation on government, agreed by government. It may, however, impose some costs on business.

Are regulatory options being considered to address the problem?

The proposed option may impose compliance costs on business — preliminary impact assessment conducted.

Step 2: Preliminary impact assessment of options

Business compliance cost checklist and estimates

The costs of this proposal would include:

- costs to governments in developing and agreeing the new framework;
- costs of annual reporting, where these are in addition to the costs of current Action Plan updates (these costs will vary across jurisdictions, depending on current reporting); and
- costs to business on responding to data requests.

The benefits of this proposal would include:

- benefits for people with disability and disability representative organisations in understanding current service provision;
- potential benefits through reduced complaints, where the information provided would have otherwise been sought through the complaints process; and
- benefits to all stakeholders in having future five year reviews using consistent data on progress.

RIS analysis requires that business compliance costs of a new proposal be identified, including their likely scale. Table G.1 sets out the likely types of compliance costs for this proposal.

Table G.1

POTENTIAL BUSINESS COMPLIANCE COSTS OF PROPOSED APPROACH – ISSUE 1

Types of costs	Relevance	Type of likely compliance costs
Reporting	Yes	Potential Costs of responding to surveys and requests for data from government (incurred already for those already completing Action Plans)
Keeping informed of obligations	No	
Seeking permission	No	
Purchase of materials, equipment or external advice	No	
Record keeping	Yes	Additional record keeping processes will likely be required to ensure that data requests can be fulfilled (incurred already for those already completing Action Plans)
Audits or inspections	No	
Producing documents	Potential	Where verification of data is required
Other changes to procedure or practices	No	

Estimating the scale of potential costs identified in 0 depends on the extent to which businesses incur costs as a result of complying with government Action Plan development. It is likely that State and Territory Action Plans would cover accessibility of large government providers, as opposed to small private providers (such as small bus operators). The majority of these large providers are already providing some information for Action Plan, with the cost to them likely to relate to the need to adapt a new reporting framework. The additional compliance costs identified are expected to be low for business, given the existing arrangements.

Assessment of other potential impacts of the regulatory option

The preliminary assessment process requires further consideration of potential impacts outside of business compliance costs. These are primarily issues relating to competition impacts and impacts on consumers. The potential impacts in relation to Issue 1 are set out in Table G.2. As shown in the Table, this proposal is not considered to have any impact on competition, though should have a positive impact on consumers through improved information.

Table G.2

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUE 1

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	No impact
Potentially change the ability of businesses to compete?	No impact
Potentially alter the incentive for business to compete?	No impact
Potentially impact on consumers?	Positive impact with improved timeliness and consistency of information provided.
Potentially have any other impacts on business and individuals or the economy?	No impact

Is there a requirement for full RIS analysis?

No – low business compliance costs and other impacts, preliminary assessment analysis sufficient. This assessment is supported through industry comments on the review Draft Report, which supported this approach as opposed to a direct compliance-based mechanism on the basis of lower costs to industry (for instance, the ARA submission to the Draft Report).

Issue 2: Availability of information on patronage of public transport for people with disability***Step 1: Analysis of the problem — is regulation being considered?***

At present, there is no collection of data on patronage trends for people with disability on public transport. The collection of patronage data, while not a performance indicator under the Transport Standards, is one method of measuring the effectiveness of the Transport Standards in removing discrimination and improving accessibility for people with disability. It can provide information about:

- the spread of improvements in accessibility for people with different types of disability, and
- the spread of improvements across modes of public transport.

The collection of patronage data will also improve the capacity of the community to make comparisons of progress between jurisdictions and encourage best practice.

Options to address the problem and impact

The Draft Report for this review suggested that the Australian Government work with the ABS to include collection of data on public transport use in its main disability survey (Disability, Ageing and Carers, cat. No. 4430.0). This proposal received very strong support from stakeholders who commented on the Draft Report.

No regulatory options were considered to address this issue. The costs of this option are considered to be minor, relating to:

- costs to government of developing additional questions and making changes to surveys. The ABS advises that it may not charge the requesting agency for the change if it considers that the additional question is a valuable addition to their data set. In some cases, it is possible to put together those data items without asking any extra questions.
- costs to survey respondents of additional questions asked, which are essentially time costs. Given the additional information could be collected with 2-3 additional questions, these costs are considered to be low (as the costs of participating in the survey are already being incurred).

On the basis of this assessment, no further assessment of business impact is considered necessary.

Are regulatory options being considered to address the problem?

No. No further RIA analysis required.

Issues 3 and 4: Accuracy and transparency of technical standards within the Transport Standards

Step 1: Analysis of the problem — is regulation being considered?

Chapter 7 of this report provides a detailed discussion of the use of Australian Standards within the Transport Standards. This analysis highlights two problems with the use of referenced Australian Standards.

First, references to Australian Standards, without specifying the technical outcomes, limit the transparency of required outcomes. The Transport Standards, as currently drafted, do not provide immediate access to all information necessary to understand the requirements for a particular conveyance or type of infrastructure. This issue of access to Australian Standards has been the subject of broader debate, such as in relation to references in the Building Code of Australia. There is, however, an important distinction between references in building or consumer products regulation, and disability standards. The Transport Standards are enforced using complaints-based systems, not with certification (unlike building regulations). In order to make informed complaints about compliance with the Transport Standards, people with disability need to have available to them information on what the Transport Standards require, at minimal cost to them.

The second problem relates to applying Australian Standards developed for the built environment to public transport. These are set out in Chapter 8 of this review, and many of them were the subject of the ARA exemption application to the AHRC. Advice from Standards Australia suggests that, while it would be possible to make referenced Australian Standards accessible (perhaps through payment of copyright royalties), there would remain important technical problems with how the Australian Standards are applied within the Transport Standards.

There are likely costs to stakeholders of leaving the Transport Standards as they are. For example, both public transport providers and public transport users reported to this review that they are uncertain as to their obligations and rights, respectively. If no changes were made to the current Transport Standards, the following impacts may occur:

- costs to public transport providers associated with researching and defending perceived non-compliance;

- costs to public transport users associated with researching and submitting complaints related to perceived non-compliance;
- costs to public transport providers associated with complying with unnecessary or inappropriate Transport Standards; and
- sub-optimal accessibility outcomes for people with a disability if public transport providers opt for securing exemptions or for non-compliance with the Transport Standards, rather than seek a solution to meet current requirements.

Options to address the problem and impact

This review considered the following options for addressing these problems:

- Option 1: Status quo — maintain current technical standards;
- Option 2: Australian Government purchase the right to include Australian Standards text in the Transport Standards; and
- Option 3: Governments work with Standards Australia to develop technical standards specific to public transport.

The status quo option is used as a base case comparison against which to consider other options. The problems with the status quo are described above. The following is an assessment of the two options for change considered by this review.

Option 2: Australian Government purchase the right to include Australian Standards text in the Transport Standards

The Australian Government can obtain a copyright licence to reproduce the text from the Australian Standards in the Transport Standards. The cost of obtaining a copyright licence to duplicate all of the Australian Standards that are currently referred to in the Transport Standards would entail \$10 000 as an initial payment, and \$5000 a year for each subsequent year.¹⁵ The corresponding benefits from this are that public transport providers and public transport users could know their obligations and their rights by referring to a single document, rather than having to cross-refer from the Transport Standards to the Australian Standards. This is particularly of benefit to public transport users, as public transport providers (particularly the larger ones) are more likely to already have access to the Australian Standards in order to comply with other regulations and standards, or seek advice from experts who have access to the Australian Standards.

¹⁵ This estimate is provided by SAI Global, who manage the copyright for Standards Australia.

Option 3: Governments work with Standards Australia to develop technical standards specific to public transport

The second option is similar to the first, except that the Australian Government could establish a working group, facilitated by Standards Australia to develop appropriate accessibility standards for different modes of transport. These ‘custom-built’ standards would be of the same quality as Australian Standards, and subject to the same consultative and testing process as the Australian Standards, but they would be designed specifically for the purpose of providing technical standards for reference in the Transport Standards. They would take into account the limitations of space for conveyances, such as stairways, toilets or storage of mobility aids. This option could therefore address other current problems with technical standards in the Transport Standards, including those set out in Table G.3.

It is important to note that, while Standards Australia would facilitate this process (and a fee would be payable to them for this service) they would not retain copyright of the technical standards produced (these would be held by participants in the process, which would be all Australian governments). Governments would then be able to decide the means by which the technical standards could be accessed by the public (which, this review would recommend, should be free of charge).

In essence, this option encompasses the recommendation in the Draft Report for an expert technical committee to review problems with technical standards. Working with Standards Australia to ensure technical standards are appropriate to the public transport environment will fulfil this role, as well as removing the reliance on referenced Australian Standards in the Transport Standards.

Table G.3

REVIEW PROPOSALS FOR PARTS REQUIRING AMENDMENT

Parts	Technical issues	Recommended amendment
Part 2.1	Access paths	Amend description of an access path from unhindered to clearly defined
Part 3.2 — 3.3	The approach to a narrow passageway	Consider adding a new clause to Part 3 to require sufficient circulation to be provided at the approach to a narrow passageway within a conveyance to allow for assisted access
Part 5.1	When rest points must be provided	Remove the requirement for resting points at airports where such points would be placed in unsafe areas
Part 6.4	Prescribed slope of ramp	Further assessment needed on the safety of 1:4 ramps for assisted access (given OH&S concerns)
Part 8.5	Width of a boarding device for aircraft	Develop an alternative requirement for aircraft, taking into account the width of doors on smaller planes
Part 9.1	Minimum size for allocated space	Amend the Part to prescribe a three dimensional space requirement for the allocated space in an accessible taxi
Part 9.3	Minimum headroom targets	Amend to be consistent with Part 9.1
Part 12.5	Vertical door targets in taxis and head height along direct path of travel from door to allocated space	Amend to be consistent with Part 9.1
Part 14	Requirements for stair nosing	Remove inconsistency of requirements for stair nosing between different Australian Standards
Parts 18.1 — 18.2	Use of TGSIs	Amend to require TGSIs in internal stairs in conveyances, to improve safety
Part 18.3	Minimum luminance contrast levels for TGSIs	Amend the current requirements for colour-contrast to reflect luminous contrast standards
Part 19.1	The provision of tactile maps and audio signals as part of emergency warning systems	Insert requirement for tactile maps and audio signals for emergency procedures
Part 20.1	The specification of illumination levels for tram and train infrastructure	Adopt the requirements in the ARA temporary exemption application for both train and tram infrastructure

Are regulatory options being considered to address the problem?

One regulatory option was considered, but is not the recommended option to government. The recommended option may have potential regulatory change, depending on outcomes from the technical assessment, these are assessed further below.

Step 2: Preliminary impact assessment of options

Effectiveness of options to address the problem

This review assessed the capacity of Options 2 and 3 to address the identified problem. In this assessment, Option 2 was considered to have some positive impact on compliance, through improved information flow to providers, though this is likely to be only for smaller providers (for the reasons noted above, larger providers should already have access to Australia Standards).

More importantly, there may be an indirect impact on compliance where alterations or upgrades by public transport users are made in response to complaints received by public transport users. Compliance with the Transport Standards is only investigated or enforced when the AHRC receives a complaint from a public transport user. As there are costs associated with making a complaint — in terms of the time involved, as well as costs associated with obtaining legal advice, or attending hearings — public transport users are unlikely to make a formal complaint unless they have some sense of how likely it is to be upheld. Reproducing the text of the relevant Australian Standards in the Transport Standards means that public transport users have easier access to compliance information.

A key weakness of Option 2 – Replicating the text of the Australian Standards in the Transport Standards – is that it does not address the issue of whether or not the Australian Standards referred to are the most appropriate. For example, many of the Australian Standards referred to were drafted to deal with disability access to and movement within buildings. The specifications for a disability toilet within a building are not appropriate for some modes of transport, such as trains or buses, because the dimensions of the toilet exceed the width of the conveyance. The same is true for some of the specifications of stairways on conveyances. As a result, public transport providers can apply for exemptions — in which case people with disability do not have access to some aspects of public transport - or can comply with the specifications at an unnecessarily high cost to themselves — for example, changing the rail infrastructure and the rolling stock so that trains are wide enough to accommodate disability toilets.

On this basis, Option 3 is the preferred approach for change, compared with the status quo. This option is assessed further against preliminary assessment requirements.

Business compliance cost checklist and estimates

The preferred option will have the following impacts on stakeholder groups:

- cost to government associated with reviewing existing standards, developing new standards, and ensuring that there is no conflict with other legislative or regulatory instruments;
- greater clarity of obligations for public transport providers;
- greater clarity of rights for public transport users; and
- greater certainty around likely outcomes of hearings.

This review considers that, on the basis of the above discussion, the preferred option to address the identified problems is option 3.

Table G.4 sets out the expected impact on business compliance costs of option 3. The preferred approach acknowledges that specific technical changes to the Transport Standards, or underpinning Australian Standards, will need to be specified by an expert technical committee, prior to changes being made to the Transport Standards themselves. Once these changes are drafted, further RIS work may be required (depending on the extent of the proposed changes).

Table G.4

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	-
Keeping informed of obligations	Yes	Marginal additional cost for transport providers, given current need to understand obligations under the Transport Standards
Seeking permission	No	
Purchase of materials, equipment or external advice	Potential	Only where technical standards were charged for, which is not the recommended approach.
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Yes	The outcome of technical revisions to the Transport Standards may incur costs, though in many cases current technical standards are not being complied with currently due to difficulties in application. These costs will be incurred following changes recommended by the expert technical committee

Table G.5

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUES 3 AND 4

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	Any changes in technical standards should not constrain the size or scope of the industry
Potentially change the ability of businesses to compete?	Potential compliance costs of specific technical proposals would need to be identified when determined
Potentially alter the incentive for business to compete?	Potential positive impact through improved quality and clarity of technical requirements in the Transport Standards
Potentially impact on consumers?	Potential positive impact where technical standards address areas of uncertainty in the current standards. Also positive impact where consumers do not need to reference Australian Standards to understand requirements in the Transport Standards
Potentially have any other impacts on business and individuals or the economy?	Non evident at this stage

Is there a requirement for full RIS analysis?

No – uncertain regulatory impact at this stage with recommended approach. Further RIS analysis may be required following finalisation of any new technical standards developed by the proposed technical committee.

Issue 5: The appropriateness of the Transport Standards to address mode specific issues

Step 1: Analysis of the problem — is regulation being considered?

The Transport Standards, as a single document applied across the public transport sector, struggle to pick up various mode-specific issues. In Chapter 7 of this report, examples are provided of cases where the application of particular requirements is appropriate for one mode of transport but not for others. While the Transport Standards does specify where particular requirements only apply to some, or one, mode of transport, there remain areas where requirements are not appropriate.

Options to address the problem

The Draft Report recommended that modal guidelines be developed, in the place of the current Transport Standards Guidelines, to provide specific direction and information on how to apply the Transport Standards by mode of transport.

Under this option, guidelines under the Transport Standards would be developed for specific modes of public transport, with the intention of providing mode specific advice and solutions to meet the requirements in the Transport Standards. These guidelines would also address uncertainty where the Transport Standards are silent or unclear on issues that are important for a specific mode (as is the case for air travel in many instances). Where the Transport Standards specify a particular requirement, the guidelines would provide advice on how this requirement can be complied with for each mode (thereby addressing particular technical or practical issues which providers face). In many cases this may take the form of a ‘deemed-to-satisfy’ solution for a mode that should provide greater certainty around obligations by mode (where at the moment the Transport Standards do provide some prescriptive standards for providers to follow, the guidelines should provide further information where it is useful to provide a mode specific solution or option). These guidelines would replace the current Transport Standards Guidelines, which many stakeholders considered were not sufficiently informative, or did not know existed.

This option was recommended over the options of maintaining the current Guidelines or revising the Transport Standards themselves to be modal-based. The option of modal guidelines was preferred because it involved a smaller adjustment cost for transport providers (than revisions to the Transport Standards), while still being an authoritative source of information for providers and people with disability.

A risk with this approach may be a loss of consistency between modes (i.e. an option for access paths for trains which is very different from that for trams or buses). This risk needs to be considered in the context of the existing inconsistencies between modes, and the inefficiencies of the current approach.

Stakeholders, in comments to the review, generally supported the proposal for modal guidelines, though with some concerns over the enforceability of the guidelines. An option to address these concerns would be to specify the role of guidelines in any complaint made. The guidelines should not differ from the Transport Standards in terms of their requirements, but rather should provide information and practical examples, in plain English on how a provider can demonstrate their compliance with the Transport Standards, and thus the DDA (which is the ultimate value of the Transport Standards). As such, the ‘enforceability’ or otherwise of guidelines is not a concern, as any requirements in the guidelines are established under the Transport Standards.

Stakeholders also wished to emphasise the need for consultation in the development of guidelines. It is proposed that modal sub-committees would include membership from:

- Industry;
- disability sector;
- the AHRC;
- APTJC (one or two representatives); and
- Local government (where appropriate, such as for bus infrastructure).

Where there are existing committees for trains and buses, these can be used to progress guidelines in a consistent framework.

Are regulatory options being considered to address the problem?

Yes preliminary assessment required.

Step 2: Preliminary impact assessment of options*Business compliance cost checklist and estimates*

There will be up front costs involved in developing the guidelines themselves. These costs will be incurred by all governments, and those industry and disability sector representatives who participate in committees developing the guidelines (primarily time costs).

Once the guidelines are developed, there will be some costs for government in providing information about the new guidelines, including promoting the new arrangements through written materials, presentations to industry and disability groups.

In terms of costs for business, the key types of costs are set out in Table G.6.

Table G.6

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	
Keeping informed of obligations	Yes	Time costs to review and understand new guidelines.
Seeking permission		
Purchase of materials, equipment or external advice		
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Potential	Where the guidelines provide information or guidance which is implemented (though these are underlying costs of compliance with the Transport Standards).

As noted in the Table above, there are two key potential costs for business of this approach.

- The first are costs for business of keeping informed of their legal obligations. This essentially relates to a requirement for businesses to understand laws that apply to their operations (and ensure that this knowledge is up-to-date).
- The second are costs of changes in procedures and practices as a result of any change in their obligations (or, importantly in this case, clarification of obligations).

The first set of costs are relatively straightforward, essentially the time costs of businesses reviewing documentation, understanding what the new documentation means and having certainty that they are fully informed. The nature of these costs should be the same across all affected businesses, though for small businesses it may be the owner-operator who takes the time to review the guidelines, while in larger firms it will be a legal or policy advisor who would conduct this work. The volume of the review work itself should be consistent across firms (though the potential costs of change as a result of referring to the new guidelines will differ across type and size of providers, as discussed in more detail below).

Estimated costs for industry to review the guidelines are set out in Table G.7. These reflect the *minimum* cost to each business of new modal guidelines if they are introduced to replace the current Transport Standards Guidelines. These estimates are based on the assumption that not all providers will review the new guidelines (given that, for all types of regulations, there is typically a proportion of firms who choose not to be informed of their obligations). The estimate of 15 hours of review time includes time to review the guidelines themselves, as well as time to cross reference their own policies against the new guidelines.

These costs are incurred in addition to the time providers already invest in meeting their obligations under the Transport Standards. Where providers may already invest a proportion of time each year to review their compliance with the Transport Standards, the introduction of the new guidelines could be built in to this process.

Table G.7

ESTIMATED COSTS OF REVIEWING NEW GUIDELINES DOCUMENTS

	Estimated number of providers expected to update knowledge on requirements
Bus and coach	1860
Rail and tram	13
Air travel	8
Trams	3
Ferries	8
Taxi operators	120
Total	2012
Total cost per operator (15 hours review time of Guidelines at \$35/hour)	\$525
Total cost	\$1,056,300

Note: The proportion of providers incurring these costs is based on estimates of the total number of business entities in the sector, and an assumption of the likely percentages of these that will invest time in reviewing the new Guidelines.

While these costs seem very low given the size of the industry, it is useful to step out these costs as the baseline costs for all providers, regardless of whether the new guidelines lead to them making any changes to the practices or procedures. For some providers the new guidelines may simply confirm that their current practices are in line with requirements in the Transport Standards (and, therefore, the DDA). In this case, there would be no additional costs for those providers, though the benefit would be a greater degree of certainty that their current practice is consistent with their requirements under the Transport Standards and the DDA.

There will be a sub-set of providers that will incur additional costs where they choose to use the guidelines as a means of changing their practices or procedures. This may occur if:

- the provider had not made any changes in their operations since the introduction of the Transport Standards because they were uncertain about their obligations, and were risk averse about making new investment without certainty that the new investment was the correct way to comply with the Transport Standards; or
- the new guidelines clarify an aspect of a requirement under the Transport Standards which leads to a provider deciding to make a change in their operations (or to make sure, such as through training, that their staff understand more clearly what their obligations are).

The proportion of the total sector that may incur these sorts of costs is uncertain — to know this requires understanding of current compliance levels with the Transport Standards which is currently not collected or reported (outside of State and Territory Action Plans). Further, the magnitude of these costs is likely to be highly variable as some providers may incur a very small cost associated with a clarification in one part of the Standards, whereas for others the changes will be more significant. These costs are, however, actually costs for providers of understanding better the obligations under the DDA and the Transport Standards, and are therefore costs of these obligations, not of the introduction of modal guidelines directly, as discussed in more detail below.

The intention of the new guidelines is to provide further information and suggestions for providers on how to meet their obligations under the DDA — essentially the same intent of the current Transport Standards guidelines, but with a mode specific focus. They are not intended to establish *required* practice, as there would remain scope for providers to use mechanisms such as unjustifiable hardship or equivalent access where they are not in a position to implement the means of compliance described in the Transport Standards or the modal guidelines. Further, the guidelines cannot ‘override’ the Transport Standards themselves — the modal guidelines cannot set requirements which are not consistent with the Transport Standards or the DDA. The value of the guidelines is that they provide further information (on a modal basis) and a guide for providers to be able to *demonstrate* their compliance with the DDA.

A key question is therefore, if the information in the guidelines leads to a business changing their operations, processes or procedures, is the cost of this change attributable to the new modal guidelines?

Firstly, to the extent that the new guidelines trigger a change in practice by business, this is effectively a cost of the Transport Standards themselves, or in fact the DDA, as the guidelines are working to better articulate the requirements in the Transport Standards (which themselves serve the purpose of articulating how providers can comply with the DDA). Some examples illustrate this point:

- A local council has not as yet invested in new bus stop infrastructure because they are uncertain about which bus stop design would meet their obligations under the DDA, and they do not wish to invest with this uncertainty. The bus modal guidelines provide an example of a ‘compliant bus stop’ which the local council can use as a design template, thus providing an impetus for their future investment plan for bus stop upgrades. In this case, the costs of upgrading are not due to the modal guidelines, though the guidelines provided the necessary information for the investment to begin.
- As a result of examples provided in the modal guidelines, a bus operator makes changes to the format of its online timetables and updates its information at bus terminals. In this case, the obligation to provide this information rests with the Transport Standards themselves.

There are some areas where the Transport Standards (and Transport Standards Guidelines) currently offer very minimal guidance, or are completely silent — a good example being the carriage of mobility aid on aircraft. In these instances, the modal guidelines are a good vehicle to provide mode specific guidance on obligations, which may be a simple interpretation in context. If the development of a modal guideline leads to an agreement on a specific change to the Transport Standards, this should be then progressed by government as an amendment to the Transport Standards themselves (as the guidelines cannot set obligations which are inconsistent with the Transport Standards).

The modal guidelines themselves should not impose any additional obligations on providers over and above that already in place in the Transport Standards. Therefore any costs incurred through referral to the guidelines are essentially costs of compliance with the Transport Standards (which are costs that would have been captured in the original cost-benefit analysis of the Transport Standards).

Assessment of other potential impacts of the regulatory option

Table G.8 provides an assessment of other impacts of the option of introducing modal guidelines.

Table G.8

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUE 5

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	Small to no impact given low compliance costs per operator
Potentially change the ability of businesses to compete?	Costs consistent across providers, therefore should not have competitive impacts
Potentially alter the incentive for business to compete?	Potential positive impact where modal guidelines provide improved certainty for existing providers and prospective providers
Potentially impact on consumers?	Positive impact where consumers are able to use the modal guidelines on which to base their expectations for accessibility of public transport
Potentially have any other impacts on business and individuals or the economy?	No other impacts

Is there a requirement for full RIS analysis?

No – low business compliance costs identified. Preliminary assessment sufficient.

Issue 6: Information on compliant mobility aids***Step 1: Analysis of the problem — is regulation being considered?***

Public transport providers are not readily able to identify which mobility aids will fit within accessible conveyances at the point of boarding. People with mobility impairment do not necessarily understand the limits on mobility aid use in public transport when purchasing a mobility aid.

Across the range of mobility aids available for purchase in Australia, only a proportion are suitable for use on public transport, primarily due to their size (i.e. they are larger than the allocated space or boarding width size specified in the Transport Standards).

Public transport providers are concerned that, while they are complying with the Transport Standards in relation to the size of ramps, width of access paths, manoeuvring areas and allocated space, these are all based on the size of a wheelchair established in the Transport Standards (based on the Australian Standard). This is one area of the Transport Standards where a performance-based approach is not appropriate. Given the large range of mobility aids currently being used, complying with an outcome-based standard would mean allowing sufficient space for the largest possible size of mobility aid (the outcome being that you had to design a conveyance or infrastructure so that all mobility aids could fit). Equally, given the large amount of investment that has already been made on the specifications in the Transport Standards, the costs of changing the specifications in the Transport Standards would be prohibitive and inefficient.

In their comments to this review, stakeholders were very supportive of an information and education approach to addressing these problems. The most effective and efficient approach would be to introduce a program of labelling mobility aids (with a sticker) that indicates that a particular model meets the specifications under the Transport Standards (for weight, dimensions and turning capabilities). As expressed by the Bus Industry Confederation:

The bus and coach industry seeks support of State and Federal Governments to have mobility devices clearly identifiable as being able to be carried on public transport. Currently there is no requirement or mechanism for bus and coach drivers to determine which mobility devices are suitable for use on conveyances. (sub. 87, p.1)

Options to address the problem

The Draft Report assessed this problem in relation to looking at gaps in information for providers in operating accessible public transport — that is, what information do providers need to have to effectively operate accessible public transport. In this context, the option of a mobility labelling scheme was assessed alongside options for promoting best practice methods through information campaigns, and a broader option of establishing a new body to coordinate a range of information and reporting mechanisms.

The Draft report recommended that a mobility aid labelling scheme be introduced, coordinated and funded by APTJC. This recommendation was broadly supported, though with concerns over the commitment of governments to fund the scheme, particularly given a similar scheme, progressed through the National Scooter Policy Working Group, failed because not all States and Territories were able to commit the necessary funding (at albeit relatively small amounts of less than \$20,000 per jurisdiction). As the Queensland Government noted in comments on the Draft Report:

Previously, a National Scooter Policy Working Group was convened as a sub-group. This group was chaired by Queensland with cross jurisdictional representation including a number of technical experts. The final recommendation of the group was to seek the development of a comprehensive Australian Standard for the restraint of mobility scooters in accessible vehicles and to investigate the development of a certification and labelling regime. To progress these recommendations, the group sought funding for the employment of a Research Project Officer. Contributions required from the relevant jurisdictions (including the Commonwealth Government) were approximately \$14 000 per jurisdiction. This approach was rejected due to the lack of jurisdictional funding and a strong perception that a nationally agreed outcome would never be reached on this issue. (sub. DR49, p. 8)

Additional comments on this recommendation noted that there remains uncertainty around whether particular mobility aids are safe for passengers to travel in on conveyances (i.e. the use of the mobility aid instead of a fixed seat on a train, coach, bus or taxi). These issues relate to the application of Australian Design Rules.

These concerns notwithstanding, this review maintains its recommendation from the Draft Report that a national system of labelling for mobility aids be introduced. Commitment from the Commonwealth, State and Territory governments is essential for this initiative to progress. The review considers that safety of mobility aids can also be incorporated into this scheme.

The main costs of administration of the scheme will be:

- developing the framework criteria for the assessment of mobility aids (that is the parameters that will be reported on the label and the form that reporting will take)

- developing a label template for use by manufacturers which specifies that the compliance of the aid with specifications in the Transport Standards and the weight of the mobility aid (and therefore the proportion that the weight of the aid contributes to the overall weight limit of a boarding device). In this instance, templates for weight within 5 kilograms would be sufficient.
- providing some resources to monitor compliance with the scheme, including a means for retailers or customers to report any problems with the scheme, or to provide information on the scheme (which could be provided with a small resource commitment within a government agency).

Are regulatory options being considered to address the problem?

Yes, preliminary impact assessment required.

Step 2: Preliminary impact assessment of options

The potential business compliance costs of this approach are set out in Table G.9 below. For business, costs will be incurred by retailers of mobility aids and manufacturers of aids who will be asked to submit information on aids they sell in Australia.

Table G.9

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	
Keeping informed of obligations	Yes	Up front costs in understanding the scheme, costs to understand changes to the scheme over time
Seeking permission	No	
Purchase of materials, equipment or external advice	Yes	Purchase of labels for mobility aids by manufacturers, importers or retailers.
Record keeping	Yes	Manufacturers will need to compile information on their aids in order to make a determination on whether the aid meets the criteria for a compliant mobility aid (to report the weight of the aid on the label).
Audits or inspections	Potentially	There may be audit or inspection of compliance with labelling requirements if there are complaints made by customers or retailers.
Producing documents	No	
Other changes to procedure or practices	Yes	Costs of retailers in providing information at the point of sale (where customers seek information on how to interpret the label).

Mobility aid manufacturers should incur the majority of these costs, though the actual cost impost will depend on the arrangements agreed between manufacturers, importers and retailers.

Assessment of other potential impacts of the regulatory option

Table G.10 provides an assessment of the other potential impact of regulatory option.

Table G.10

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUE 6

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	Potential impact on very small providers, though additional costs are small
Potentially change the ability of businesses to compete?	Should not have competitive impact as requirement is consistent across all providers
Potentially alter the incentive for business to compete?	No impact
Potentially impact on consumers?	Positive impact through improved information for consumers
Potentially have any other impacts on business and individuals or the economy?	

Is there a requirement for full RIS analysis?

No — moderate business compliance costs and other impacts. Business Cost Calculator assessment required.

Similar to other schemes which label appliances (such as energy efficiency or water efficiency labelling) the labels would be based on the same template, but will also include some specific information on that mobility aid, primarily its weight. This is needed because the weight of the passenger contributes to the overall weight of the device when boarding a conveyance — the label cannot simply say that the mobility aid 'complies' under the weight requirements as this will depend on the weight of the person using the aid. Specific weight information should specify the actual weight of the device and the maximum weight of the person riding the aid for it to be used on a boarding device. This will allow the customer, at the time of purchase, to make an informed decision about the suitability of the aid for their needs, and lets them know what the maximum weight limit is of boarding devices for conveyances.

Aside of this information on weight, the remaining characteristics (primarily the dimensions and turning circle) should be displayed as a 'this complies' statement.

Costs for business of this scheme relate to:

- administrative costs in assessing a new model against the criteria for labelling, determining compliance and the information to be displayed on the label (primarily the weight of the aid); and
- the cost of the labels themselves for each new mobility aid placed for sale on the market.

Administrative costs of assessing new models for labelling

In relation to the first set of costs (administrative) the extent of costs incurred will depend on the number of new aids introduced to the Australian market in any given year. This data is not currently available from any industry source. Research on mobility aids¹⁶ currently sold in Australia found 13 brands of mobility aid with at least 2 types in the range sold in Australia. Of these brands, 190 different types of mobility aid are offered for sale in Australia. If it was assumed that these products represent 90 per cent of the number and types of mobility aids sold in Australia (allowing for small manufacturers), then it can be estimated that around 210 types of mobility aid are currently sold in Australia.

For a new labelling scheme to be implemented, there would need to be an implementation period where currently available models on the market in Australia would be assessed for labelling. From that point on the assessment would be needed for each new model introduced to the market (though not all of these would be labelled).

Estimating the costs of labelling new products involves understanding the rate of new models entering the market. Given the development costs of new items (and their capital intensity), it is likely that the total stock of aids would not turn over at a great rate. Taking a range of potential new products entering the market each year:

- if 5 per cent of the market for products ‘turned over’ each year, it would involve 11¹⁷ new models being added to the market;
- if this rate were 10 per cent, there would be 21 new models on the market each year; and
- If this rate were 15 per cent, there would be 32 new models on the market each year.

These estimates need to capture both new models and updates to existing models. Even in this context, this review considers that it would be unlikely to have an annual turnover of more than 10 per cent.

Ongoing costs of labelling mobility aids for sale in the Australian market

Once the label template has been set up for each model, the ongoing costs will be to print and fix the labels onto units for sale in the Australian market. Cost estimates for similar appliance labelling schemes put these costs as between 10 and 20 cents each time an item is labelled (Wilkenfield and Associates 2004, p77).

¹⁶ For this purpose, mobility aids were considered to include manual wheelchairs, electronic wheelchairs, power wheelchairs and scooters (both three wheel and four wheel).

¹⁷ Number rounded up from 10.5 new products

Unfortunately, while there is some information on the number of different types of models on the market in Australia, there is no data on the number of aids sold each year. The most comprehensive data from the ABS estimates that, in 2003, 154 000 people with disability used a manual or electric wheelchair or a mobility scooter, compared with 156 000 in 1998 (the key difference being a reduction in the use of manual wheelchairs, though there was a 77 per cent increase in the use of mobility scooters). While there are no direct sales figures available for the Australian market, the 'useful life' of these models, and the market for second hand aids, suggests that a turnover of 10 per cent of the market each year is a reasonable estimate (suggesting approximately 15 000 units sold per year). In the first year of the scheme, each type of model sold will need to have a label developed, and each unit sold will need to have a labelled applied to it. In subsequent years label administration costs will only apply to new models on the market, with the cost of the printing and fixing of labels to apply to all units available for sale in that year (which had not been previously labelled).

Estimates of expected total administrative and on-going labelling costs

Estimates for the establishment and on-going costs of labelling are provided in Table G.11 below.

Table G.11

IMPLEMENTATION COSTS — ADMINISTRATIVE AND LABELLING	
Estimates and assumptions	
Number of current mobility aids to be labelled in the implementation period	210 (estimated)
Costs to manufacturers of understanding criteria for labelling and developing a system of relating information on their aids to the criteria for labelling	15 manufacturers of mobility aids for the Australian market time cost of 24 hours to familiarise with labelling scheme \$12,600
Administrative costs for manufacturers of reviewing model characteristics and setting out labels for each model	4 hours per model \$35/hr (based on average weekly earnings) \$31,500
Administrative costs for retailers to familiarise themselves with the new scheme and train staff	220 retailers (estimated) 12 hours administrative and staff training costs \$35/hr (based on average weekly earnings) \$420 per retailer (\$92,400 total cost)
Total implementation costs	\$136,500

Sources: The estimate of the number of mobility aids sold in Australia is based on ACG research of 13 main brands of products online. Average weekly earnings data is sourced from ABS cat. No. 6360.0.

The expected annual cost of the scheme (for both new models and on-going labelling costs for existing models) are set out in Table G.12 below.

Table G.12

ANNUAL COSTS — ADMINISTRATIVE AND LABELLING

Estimates and assumptions	
Administrative costs of compiling information and setting out labels for new models introduced to the market	Number of new models on the market each year = 21 (estimate) Cost per model (as per estimates in Table 11.4) = \$140 Total cost = \$2730.00
Cost of labelling new units for sale	\$3000 (15,000 models @ 20 cents per label)
On-going administrative costs for the scheme — retailers	10 hours administrative work for retailers to ensure that their mobility aids are correctly labelled and address consumer enquires that relate to the labelling (based on average weekly earnings) = \$77,000
Annual compliance costs	\$82,730.00

Sources: The estimate of the number of suppliers in Australia is based on ACG research of suppliers online. There is not currently an ABS estimate of suppliers of this industry. This estimate is based on retailers who have mobility aid supply as one of their core functions of their business. Average weekly earnings data is sourced from ABS cat. No. 6360.0.

The cost estimates above have been presented on a total industry basis. Based on estimates of the number of retailers in the sector these costs appear to be moderate on a per retailer basis. There are currently no available estimates of the total value of the sector as a whole, which may have provided another indicator or the reasonableness of the cost estimate, though the total scale suggests that the costs are unlikely to be significant on that basis.

Issue 7: Information on best practice and innovative applications

Step 1: Analysis of the problem — is regulation being considered?

Public transport providers and people with disability identified problems of the sharing of best practice examples. Amongst these groups, there is a perception that there is currently little information sharing between jurisdictions, as well as an unwillingness to seek out solutions. Local governments also reported a desire for improved information sharing on best practice. State and Territory government departments were less concerned about this issue, perhaps reflecting their own position within APTJC, a forum which allows them to discuss implementation issues.

The Draft Report proposed the funding of a clearinghouse of best practice examples, which may include technical solutions or ways in which to provide equivalent access. This proposal was linked to the initiative for mobility aid labelling, though may or may not include this function. The proposal in the Draft Report was to have a clearinghouse based in a research body or government department, which would collect and disseminate best practice examples and ideas, both in meeting the requirements in the Transport Standards, and more generally on accessible public transport.

This proposal would involve costs for government in establishing and operating the clearinghouse function. Costs to business of participation in this initiative are expected to be very low, as it would operate on a voluntary basis. Business would benefit from the additional information made available through the clearinghouse.

Are regulatory options being considered to address the problem?

No. No further RIS analysis required.

Issue 8: Local government resource constraints for upgrading public transport infrastructure

Step 1: Analysis of the problem — is regulation being considered?

The 1999 RIS for the Transport Standards concluded that they would have a net benefit to the community — the costs of upgrading public transport conveyances, premises and infrastructure over the 30 year compliance timeframe were assessed to be outweighed by the benefits of removing discrimination. While benefits from the Transport Standards are likely to accrue to individuals over time, the costs of upgrades to public transport conveyances and infrastructure are incurred by:

- a smaller group of public transport operators and providers; and
- private and public providers of transport infrastructure.

Smaller public transport providers and local government are experiencing the greatest pressure on resources in meeting their obligations under the Transport Standards. The Transport Standards do have provisions for unjustifiable hardship, though the extent to which this avenue is open to providers is uncertain (as it needs to be tested in the course of a complaint).

Options to address the problem and impact

The issue of resourcing infrastructure upgrades by local governments was reported in the Draft Report, but not directly addressed in Draft Recommendations. Several stakeholders, in comments on the Draft Report, requested that the review consider this issue more directly:

The final report should also make recommendations on the funding of accessible infrastructure on a national basis, particularly where local government is finding it difficult to allocate sufficient funding. There should also be a reference to the benefits that would result from the Commonwealth taking a leadership role in addressing this issue. (subDR. 37.p.4)

Other comments on the Draft Report sought greater acknowledgement of the significant resource pressures on these parties, with the risk that milestones will not be achieved. This is particularly the case in regional and rural areas where there is a lack of existing infrastructure to support upgrades. Local councils in particular therefore face ‘steeper’ investment requirements where they are starting from a lower base of existing infrastructure (such as footpaths, roadside curbs etc).

As the Australian Local Government Association commented on the Draft Report:

Local Government considers that the good intentions of the *Disability Discrimination Act* have not been fulfilled due to the lack of resources to properly implement the requirements of the legislation and a properly structured administration process. Resources have been lacking to allow the development of clear and practical standards able to be used in the field (resulting in uncertainty), for necessary infrastructure upgrades and for the development of tools to measure progress. . (sub. DR32, p.2).

In light of these issues, the review recommends that Commonwealth, State and Territory governments consider establishing a fund for infrastructure upgrades, in order to support compliance with the Transport Standards milestones. The funding of projects would be directly to those areas of greatest need, where geographical conditions increase the cost of infrastructure upgrades for local governments. This program should be supplemented with information and education programs for local councils to assist them in understanding their obligations under the DDA.

Are regulatory options being considered to address the problem?

No. No further RIS analysis required.

Issue 9: Reliance on complaints-based enforcement

Step 1: Analysis of the problem — is regulation being considered?

The current complaints process has been criticised by stakeholders for its reliance on individual complaints as the main way of identifying non-compliance with the Transport Standards. With no other enforcement mechanism in place, the current approach uses the threat of a complaint as a deterrent to non-compliance. The key limitations to this approach are:

- it places a large amount of responsibility, and possible financial risk, on people with disability;
- impediments to individuals making and following through with complaints may weaken the incentive for providers to comply with the Transport Standards (using a risk management approach); and
- it focuses on individual solutions versus systemic solutions to problems.

In many ways, the problem is not so much with the role of the complaints process in managing individual complaints, but with a lack of precedent and certainty around obligations. The Transport Standards are intended to provide clarity and certainty around obligations under the DDA. Legal processes are therefore intended to be a ‘last resort option’ for a small proportion of instances. The first five years of implementation of the Transport Standards have not provided the expected level of certainty or clarity of obligations, thus placing pressure on individuals to push forward with complaints (based on their own experience) to enact broader change.

To some degree, these problems could be addressed through improved processes to clarify obligations to providers (such as through modal guidelines). There remain, however, limits to the degree to which the current complaints process can drive compliance with the Transport Standards, as discussed in Chapter 10 of this report.

Options to address the problem

This review considered the following options for addressing these problems:

- Option 1: Status quo — maintain current complaints process.
- Option 2: the AHRC to have powers to initiate cases in Federal Court.
- Option 3: Greater facilitation of representative complaints.

The status quo option is used as a base case comparison against which to consider other options. The problems with the status quo are described above. The following is an assessment of the two options for changed considered by this review.

Option 2: The AHRC to have powers to initiate cases in Federal Court

One option is to broaden the role of the AHRC to be able to bring complaints before the Federal Court on behalf of public transport users. Currently, only a public transport user who believes that they have been discriminated against can bring a complaint to the AHRC. In making a complaint, public transport users must report a particular instance where they believe they have been discriminated against, rather than simply reporting that the public transport provider has not complied with the Transport Standards. If no resolution is achieved through the complaints process facilitated by the AHRC, the complainant may proceed to the Federal Court. Data in chapter 10 of this report shows that only a very small proportion of unresolved complaints proceed to court. A role for the AHRC in this regard would be to bring forward cases of non-compliance with the Transport Standards that may not be being progressed by individuals.

Option 3: Greater facilitation of representative complaints

Currently, representative complaints are allowed by the Commission and the Federal Court, though with limitations. As discussed in Chapter 10, the scope for representative complaints to the Commission is broader than that for the Federal Court, which has led to at least one case going forward to the Federal Court being dismissed on the grounds of legal standing. The Productivity Commission, in its review of the DDA, noted that:

There appears to be some confusion about the ability of disability organisations and advocacy groups to initiate representative complaints with the Human Rights and Equal Opportunity Commission and to proceed to the Federal Court or Federal Magistrates Court. This is likely to have discouraged organisations from making such complaints.

A suggestion put forward to this review is for assistance to be provided to representative complaints through the Commission, in situations where conciliation does not produce an outcome. Such assistance could be in the form of advice on representative complaints requirements for the Federal Court, as the Public Interest Advocacy Centre (PIAC) noted in comments on the Draft Report:

While the appropriate and ideal resolution is to bring the Federal Court Rules into line with the HREOC Act, in the interim at least, a similar situation can be avoided by notification by HREOC to prospective representative complainants of what is required by the Federal Court or Federal Magistrates Court in relation to representative proceedings.

Are regulatory options being considered to address the problem?

Yes, preliminary impact assessment required

Step 2: Preliminary impact assessment of options*Option 2: Australian Human Rights Commission to have powers to initiate cases in Federal Court*

Allowing the Commission to progress unresolved complaints to the Federal Court has an obvious efficiency benefit, as there are economies of scale that can be exploited. The Commission can employ staff who have a detailed knowledge of court proceedings, the Transport Standards, and the outcomes of similar hearings — all things that are likely to be beyond the average public transport user. In order for the Commission to be able to do this, however, it would be necessary to improve the resourcing of the Commission itself. For example, in their submission to the Productivity Commission Inquiry on the DDA, the AHRC noted that:

A number of submissions support a role for HREOC itself in bringing complaints to the court as a response to this issue. It needs to be noted however that HREOC's current budget would not permit it to risk costs in more than a small number of cases in any year, and that HREOC does not see a complaint initiation power for HREOC as substituting for effective provision for and use of complaint procedures by and on behalf of people with disabilities. A complaint initiation power for HREOC would thus not remove need for consideration of the impact of the potential for costs on the effectiveness of the legislation.

The Commission did not provide a written submission to this review, or provide written comments on the Draft Report. This review has therefore not received formal confirmation from the Commission about its willingness and capabilities to take on this role. Informal discussions with Commission staff have found support for this proposal from Graeme Innes, as noted in his public comments on the Draft Report:

I particularly welcome the recommendation that HREOC be given the power to refer cases of breaches of the Standards to the Federal Court and look forward to reading stakeholder views on this recommendation. (HREOC 2007h)

Comments on the Draft Report were split relatively evenly in their views on this proposal. Disability organisations, including Blind Citizens Australia and the Australian Federation of Disability Organisations, were supportive of the recommendation:

BCA supports this recommendation. Giving HREOC powers which are similar to those maintained by the ACCC, ACMA and ASIC would take the burden off people with disabilities to make individual complaints, and would allow disability advocacy organisations to raise more pressing issues with HREOC directly. It would also allow HREOC to bring the full force of the law against repeat offenders who may have a number of similar individual cases resolved quietly through conciliation. (sub, DR27, p.11)

Industry and State and Territory governments (who are often also service providers) expressed concerns about the impact of this proposal on the independence of the Commission in conciliation. There was further concern that this option further emphasises legal solutions to managing problems with the operation of the Transport Standards.

The potential costs and benefits of this options across stakeholders are:

- increased cost to government associated with resources for the Commission. These are estimated to be in the range of \$100,000 per year in staffing costs, with additional costs if the Commission is required to pay costs if it acts on its new powers;
- potential for reduced costs to individuals of entering or contesting complaints, though as only a small proportion of cases currently go to Court, the reduction in costs will be relatively minor;
- benefits to individuals, where outcomes of cases provide a positive outcome for them which would not have been achieved through other means (i.e. where they did not have the ability themselves to pursue legal avenues);
- costs to public transport providers who are the subject of cases pursued by the Commission;
- additional compliance costs for providers where outcomes from cases pursued by the Commission resulted in increased investment or provision of services (effectively, where compliance with obligations increases); and

- increased court costs and delays to other cases if courts not resourced.

The magnitude of these costs is highly dependent on the degree to which the Commission considers that there is a need to bring cases forward.

Option 3: Greater facilitation of representative complaints

The attractiveness of this option is that it provides additional support for people with disability in making complaints, while at the same time avoiding the costs and potential risks of the Commission taking a lead role in initiating litigation. While this role may still lead to concerns over impartiality, it is more aligned with the current role for the Commission as *amicus curiae*.¹⁸

Of the two options assessed above, the review assessment supported Option 3 as the proposed option for further analysis, given stakeholder feedback on risks to the impartiality of the Commission in conciliation from Option 2, and the potential for higher costs of Option 2. In this regard, Option 3 was considered to be the most effective in addressing the problem with the fewest distortionary impacts on the role of the Commission.

Table G.13 provides an assessment of the potential business compliance costs of Option 3, compared with the status quo option. These are considered to be low to moderate in nature, particularly given the existing obligations for business to comply with the Transport Standards (that is, any additional costs through increased compliance with the Transport Standards are effectively costs of the Transport Standards themselves).

Table G.13

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	-
Keeping informed of obligations	No	
Seeking permission	No	
Purchase of materials, equipment or external advice	No	
Record keeping	No	
Audits or inspections	No	
Producing documents	Yes	Potentially where there is a complaint made against the business, though this is only a cost where there is a marginal increase in claims compared with the status quo
Other changes to procedures or practices	Yes	Potential for changes to procedure or practices as a result of a complaint being lodged (where this complaint is additional to the status quo position)

¹⁸ Amicus curiae is a legal Latin phrase, literally translated as "friend of the court", that refers to someone, not a party to a case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

The purpose of the Commission facilitating representative complaints is to provide greater support for people with disability to progress their complaints, and achieve resolution of issues. This option may lead to additional compliance costs to business where this role for the Commission leads to:

- an increase in complaints initiated by people with disability (perhaps driven by an increase in expectations of the likelihood of a positive outcome from making a complaint); or
- an increase in the number of complaints that progress beyond conciliation.

The extent of those costs, in the areas identified in Table G.13, depends heavily on the number of cases facilitated by the Commission. In any case, the costs of producing documents and changes to procedures or practices are currently potential costs for all businesses operating under the Transport Standards and the DDA. The cost of this change is really, therefore, at the margin in terms of how it may affect the progress of complaints, and therefore the costs of these complaints. Advice from the Commission suggests that any new role for them in this regard would be acted on in only a small number of cases, therefore perhaps leading to a marginal increase in complaints from the current small number.

Table G.14

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUE 9

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	No impact
Potentially change the ability of businesses to compete?	Potential in depending on the outcome of complaints facilitated by the Commission
Potentially alter the incentive for business to compete?	No impact
Potentially impact on consumers?	Positive impact for those consumers who received assistance from the Commission
Potentially have any other impacts on business and individuals or the economy?	

Is there a requirement for full RIS analysis?

No – expected low business compliance costs and other impacts preliminary analysis sufficient.

Issue 10: Effectiveness of governance supporting implementation of the Transport Standards***Step 1: Analysis of the problem — is regulation being considered?***

The current governance arrangements supporting the Transport Standards are not effective in managing issues arising from Transport Standards implementation. Stakeholders report that the arrangements are not effective in addressing problems with the Transport Standards as they arise.

Options to address the problem

There are essentially three options in addressing these issues.

Option 1: APTJC responsibility, in consultation with APTNAC

Under this option, APTJC would be tasked with responsibility for establishing and resourcing the various necessary small groups and committees required to progress recommendations from this review. APTJC would be required to report to APTNAC on progress, and committee reports could also be provided directly to APTNAC for comment. This is essentially the recommended model from the Draft Report. The benefits of this approach are that the responsibility for management and coordination is placed with a small committee with responsibility for resourcing. Governance and administrative processes are therefore more straightforward. Increased meeting frequency for APTNAC would mean that input and communication with this group would be improved from the current arrangement. It is likely that most APTNAC members would also contribute to modal sub-committees and provide technical advice on standards, meaning that they would not be excluded from these processes, but would not have management or coordination responsibility for them.

Option 2: APTNAC responsibility for managing administration of the Transport Standards

Under this model, the processes and structures described above would apply, but with responsibility placed with APTNAC rather than APTJC. The advantage of this model is that APTNAC has a broader membership and thus there would be greater involvement from industry and disability sector representatives. This option was considered at the Draft Report stage, but ultimately discounted because:

- APTNAC has an advisory function rather than an administrative or coordination function. The size of the committee does not lend itself to these roles;
- non-government members of APTNAC are unlikely to be in a position to commit the necessary time into performing advisory and administrative functions;
- APTNAC has no direct resourcing capabilities, meaning that any resourcing decisions would need to be managed through APTJC; and
- to date APTNAC has not proven itself to be a forum where timely decisions can be made.

Option 3: Establish a new body to manage and administer the Transport Standards

A third option considered was the establishment of a new body to coordinate initiatives. The advantage of this approach is that it would avoid the current poor perceptions about APTNAC and APTJC. In reality, however, membership of any new body would likely include the majority of current members of APTNAC (government, industry, disability sector, the AHRC), as these are the key stakeholders who need to be included. Creating any new body would therefore, incur costs for little gain.

Are regulatory options being considered to address the problem?

No. No further RIS analysis required.

Appendix H

Regulatory impact assessment of key issues — mode specific issues

Mode specific issue 1: Trams — future compliance targets

Step 1: Analysis of the problem — is regulation being considered?

The Transport Standards set a compliance timetable for trams which requires:

- 90 per cent of conveyances to be compliant by 2017 (the 15-year milestone); and
- 100 per cent of conveyances to be compliant by 2032 (the final milestone).

The Victorian government requested, in comments on the Draft report, that the reasonableness of this timeframe be re-considered. The issue was originally raised in the Victorian government's full submission to this review:

There is a significant mis-match between the milestones for trains and trams (30 years) and related infrastructure (20 years) which may prove unworkable, particularly for tram services. The milestones require a heavily weighted replacement rate for trains and trams, by providing 15 years to replace 90% of vehicles and another 15 years to replace the last 10% of vehicles. This does not fit comfortably with vehicle replacement programs or cycles. While this is not a significant issue for trains in Victoria (which are already virtually fully compliant), in the case of trams, older rolling stock cannot be retro-fitted. A more even roll out of replacement vehicles across the 30 years could be considered, whilst achieving the same final result of full compliance by 2032. This could also achieve better integrated outcomes between vehicles and infrastructure, towards the later milestones, provided that it is progressed in consultation with people with disabilities. (sub71, p.12)

And raised further in their response to the Draft Report:

... the timeframes for compliance (should) be reviewed in relation to trams (should provide a more even roll-out for the replacement of conveyances through the middle milestones of 55% by 2012 and 90% by 2017 across the thirty years to 2032. The end result would be the same yet would reflect government funding cycles under value for money principles. (subDR.54, p.7)

The request is essentially to 'smooth' out the compliance timeframe to reduce costs of replacement of conveyances, with the ultimate milestone remaining unchanged.

Options to address the problem

There are two feasible options to address the problem:

1. Maintain the current timeframe in the Transport Standards (status quo option); or
2. Adjust the compliance milestones to 'smooth' the timeframe, which would involve a small reduction in the 2017 target for tram compliance.

Step 2: Preliminary impact assessment of options

As argued by the Victorian government, upgrades of trams rely entirely on turnover of old stock for new stock because they are unable to be retrofitted. Unlike trains, access cannot be provided through direct assistance (where ramps are provided by staff). This suggests that a timeframe based on vehicle replacement schedules is more appropriate for this conveyance over others. It is likely that maintaining the current timeframes will lead to a period where vehicle replacement rates lag behind the Transport Standards targets. A smoothing of the compliance timeframe in this instance has merit, with a marginal change to the 2017 target from 90 per cent to 80 per cent.

The impact of this option would be reduced uncertainty for tram providers and government in the management of their Transport Standards obligation. It is unlikely that this change will lead to an actual reduction in accessible outcomes in the future, as the timeframe set in the Transport Standards was unlikely to have been met (in the period from 2012 to 2017).

Business compliance cost checklist and estimates

Business compliance costs for this option are considered to be low because the option involves only a minor change to the compliance timeframe, and not a change to the overall obligations of tram providers. As indicated in Table H.1 there will be a very minor cost to providers in getting up to date with the new requirements. There may also be a very minor cost of changing Action Plan reports to acknowledge the new compliance timeframe.

Table H.1

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	
Keeping informed of obligations	Yes	Tram operators would be required to spend time understanding new obligations – expected to be very minor
Seeking permission	No	
Record keeping	No	
Audits or inspections	No	
Producing documents	Yes	Potential change in Action Plan reporting – very minor
Other changes to procedure or practices	No	

Assessment of other potential impacts of the regulatory option

The preliminary assessment process requires further consideration of potential impacts outside of business compliance costs. These are primarily issues relating to competition impacts and impacts on consumers.

As shown in Table H.2, this proposal is not considered to have any impact on competition. There is a potential negative impact on consumers due to the adjustment of the compliance timeframe, but this is considered minor as indications are that the current requirements were unlikely to have been complied with. Therefore, the proposed changes are unlikely to have an actual impact on passenger experience, and ultimately the final compliance target remains unchanged.

Table H.2

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION — ISSUE 1

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	No impact
Potentially change the ability of businesses to compete?	No impact
Potentially alter the incentive for business to compete?	No impact
Potentially impact on consumers?	Potential negative impact where timeframes for access have been altered, but given likely upgrade schedules it is unlikely that the current schedule would have been complied with.
Potentially have any other impacts on business and individuals or the economy?	No impact

Is there a requirement for full RIS analysis?

No – low business compliance costs and other impacts, preliminary assessment analysis sufficient.

2. Taxis — compliance target***Step 1: Analysis of the problem — is regulation being considered?***

The Transport Standards require that response times for wheelchair accessible taxis (WATs) be the same as for other taxis by the first five year milestone (31 December 2007). The taxi industry reports significant difficulty in complying with this target. As explained by the Australian Taxi Industry Association:

Taxi networks / cooperatives facilitate rather than control the delivery of taxi services. They are in no position to guarantee to every customer requesting a WAT that it will arrive with the same response time as another type of affiliated taxi. Using their best endeavours over the past 5 years to implement improvements to their dispatching procedures and systems, taxi networks / cooperatives have found that it is impossible to always achieve on-demand response times for WATs equal to (their) other taxis as required under the DSAPT. Of huge concern to the ATIA, where WAT response times turn out to be longer than other taxi response times, investigation has not shown the cause to be some discriminatory action / inaction on the part of the taxi network / cooperative. (sub. 15, p.11)

The Draft Report did not make a specific recommendation on the compliance target for taxis. Comments on the Draft Report for this review sought further consideration of the feasibility of this compliance target for taxis, and whether this should be amended. The current response time target, to be achieved, requires a significant proportion of the taxi fleet to be WATs. The concern expressed by both industry and some State governments is that the required investment to meet this milestone is significant for the first five years of the Transport Standards. Where other modes of transport have milestones set to reflect vehicle upgrades and replacement schedules, the same provisions have not been afforded to the taxi industry. The result is a target which is effectively unachievable in the short term without significant investment, and reliant on new entrants into the industry (which is not currently realistic in many States and Territories, with WAT licences not fully subscribed).

A further issue is the use of response time as the measure of compliance. There are two key problems with this approach:

- response times are not systematically measured, and therefore it is very difficult to determine whether services are compliant or not (as discussed in Chapter 4 of this report); and
- the responsibility for response times rests with taxi network operators, who argue that they are not able to influence vehicle response times.

Options to address the problem

The most feasible options to address this problem are:

1. Maintain the current milestone of compliance from 31 December 2007 (status quo option); and
2. Replace the 31 December 2007 milestone with a staged implementation timeframe in line with that for other modes of transport.

The second option would involve setting a 2012 milestone for taxi response times at a level consistent with requirements for other modes of transport at the point (which would be in the range of 55% compliance if consistent with bus sector compliance requirements for example), with increased targets for 2017 and 2022. In making these changes, consideration should also be given to whether the measure of response time is the best measure. In comments to this review, while many stakeholders criticised this target, no other reasonable suggestions were made. An alternative option may be to set a proportion of total fleet within a particular region. The attractiveness of this option is that there is significantly better data on fleet size than response times.

Providing an incremental compliance target for taxis will benefit taxi providers the majority of whom are currently not compliant with the Transport Standards, and therefore are at risk for a complaint being made against them. This change should not have a significant impact on accessibility outcomes for people with disability because:

- current accessibility (based on available evidence) does not meet the current milestone (therefore lowering this target will not reduce service levels);

- complaints on the basis of response times are currently very difficult to progress, given the lack of data and difficulties in proving that response times are lower for a particular individual at a particular time. This makes proving non-compliance under the current framework very difficult. Indeed, a move away from the current approach of using response times to measure non-compliance is likely to benefit people with disability, as the current measure is not readily observable (and thus difficult to prove discrimination against).

The new milestones, and performance measures, should be developed by the taxi modal sub-committee, as part of their work on developing modal guidelines for taxis. Through this process, both the taxi industry and disability representatives will have input into the final targets and measures.

Are there regulatory options being considered?

Potential change to regulation, but further analysis by industry and government required to agree the regulatory option before RIS analysis can be conducted.

3. Buses, coaches and taxis — safety of mobility aids

Step 1: Analysis of the problem — is regulation being considered?

Currently there are no safety standards which specifically test whether a mobility aid is safe for a passenger to travel in, in a moving vehicle. Further, there are no specific safety requirements in an ADR or an Australian Standard that specify how a mobility aid (or passenger in a mobility aid) should be restrained in a conveyance.

The Bus Industry Confederation (sub. 87, p. 3) and the Bus and Coach Association of New South Wales (sub. 73, p. 3) consider that wheelchairs and other mobility devices do not provide equivalent seat strength or anchorage stability as prescribed for fixed seating in ADR 68. As such, they consider that passengers being carried on a bus in a mobility device are receiving a lower standard of safety, which may increase their risk of legal liability in the event of an accident. Further, as mobility aids do not provide equivalent anchorage to fixed seating, the safety of other passengers may also be at risk in the case of an accident or sudden braking and swerving.

As the Bus Industry Confederation reported in their initial submission to this review:

The Bus Industry Confederation is concerned that wheelchairs and other mobility devices do not meet any equivalent seat strength or anchorage standard and the actual restraint of such devices to the ADR 68/00 standards is physically impossible. In addition mobility devices vary in their stability and are often at risk of being tipped over, even when restraints either active or passive are applied. It is clear that people with disabilities being carried on a bus or coach in a mobility device are receiving a lower standard of occupant safety compared to other passengers in ADR 68/00 seats which raises a number of legal and safety issues. (sub 87, p.2)

The same issue arises for taxis, where there is currently no guidance on which mobility aids are safe to ride in, and which require a passenger to transfer into a fixed seat. Further, not all people are able to transfer into a fixed seat (or cannot without significant assistance), meaning that their only option is to ride in their mobility aid (which may or may not be at the standard for fixed seating set in the Australian Design Rules).

Options to address the problem

A long term option to address this problem is to develop an Australian Standard for mobility aids which establishes the design and restraints requirements for mobility aids that are used as seating in transport conveyances (similar to that for child safety seats). To achieve this, however, the first step is to determine the level of risk to safety through current practice, and determine whether a standard is needed (or whether a less stringent approach may be more appropriate). This review therefore recommends that government commission research into the safety of mobility aids when used as seating in a bus, coach or taxi. This research should recommend whether a Standard is needed, and the extent to which current practice is safe.

Are there regulatory options being considered?

No regulatory option being considered. No further assessment required.

4. Buses and coaches — community transport***Step 1: Analysis of the problem — is regulation being considered?***

The current exclusion of community transport from the Transport Standards is counter to the function of community transport within society, particularly for services provided for older people and people with disability. For example, there is no requirement for a community transport bus to be accessible, even if the targeted group that it is servicing does, or is likely to include people with disability.

While there are cases where this is appropriate, the current definition implies that even if the ‘target group’ is defined by a disability, the Transport Standards do not apply. This is an outcome that lacks consistency with the aim of the Transport Standards and limits the effectiveness of the Transport Standards to remove discrimination for people with disability.

Options to address the problem

The Draft Report sought comment from stakeholders on the option of removing the exclusion for community transport from the Transport Standards, where the purpose of the service is to support people with disability or the elderly.

Comments on this option suggested that, while reasonable on equity grounds, the costs of upgrading conveyances would be prohibitive for many providers of these services (though actual cost estimates were not provided it was noted the community providers may only have limited scope to absorb higher costs of providing community transport). Such costs may lead to withdrawal of services. Several stakeholders, including Blind Citizens Australia and the New South Wales Government, proposed that the Transport Standards be applied to new stock for community transport. A further suggestion was to apply requirements to transport with a capacity over eight seats, to avoid capturing volunteers’ own transport in the regulations.

There has been some progress on this issue through other policies. The National Program Guidelines for the Home and Community Care Program released in 2007 state, ‘all HACC facilities (such as day care centres and transport vehicles owned by HACC services with a capacity of greater than eight people) should be accessible to people with physical or sensory disabilities’.

In light of this evidence and comments, the review proposes that a requirement be included in the Transport Standards for all new community transport stock to comply with the Transport Standards, where the purpose is for disability or elderly support services. This requirement would apply to vehicles larger than twelve seat capacity (where this capacity is measured with the inclusion of wheelchair access).

Are there regulatory options being considered?

Yes, preliminary impact assessment required.

Step 2: Preliminary impact assessment of options

Table H.3 sets out the expected type of likely business compliance costs of removing the exclusions in the Transport Standards for community transport services, and Table H.4 sets out the expected competition impacts. On the basis of the potential costs to business or new equipment and materials (i.e. bus purchases), further analysis of the costs and benefits are provided in this section.

Table H.3

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	-
Keeping informed of obligations	Yes	Potential cost for providers if Transport Standards are amended
Seeking permission	No	
Purchase of materials, equipment or external advice	Yes	Where providers are required to purchase a vehicle that complies with the new requirements in the Transport Standards, which they otherwise would not have purchased
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Yes	Potential change for operators in assisting people with disability to access the bus service (though these obligations currently exist to some degree)

Table H.4

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	The requirements may impact very small providers, though these providers would have a strong case on unjustifiable hardship grounds
Potentially change the ability of businesses to compete?	As requirements will be consistent across the sector, there should not be a competitive impact
Potentially alter the incentive for business to compete?	See above.
Potentially impact on consumers?	
Potentially have any other impacts on business and individuals or the economy?	None evident at this stage

The potential costs of this proposal include:

- higher costs for upgrades of stock, though this will reduce over time as accessible stock makes up a larger proportion of the fleet sold; and
- costs for providers in understanding their obligations under the Transport Standards

The costs of this option are set out in the Table below. The estimates are based on a start date of 2017 and a phased implementation to 2032. The estimates are based on:

- the cost 'premium' of an accessible bus of \$10,000 in 2017, decreasing to \$6,000 in 2032;
- a total fleet size of vehicles, based on estimates of community buses by local government area (as these vehicles are typically owned by local councils or State governments). The estimates assume that 100 per cent of urban local councils and 75 per cent of rural and regional councils have some form of community bus service. Of these, rural councils have one vehicle above the threshold size and urban councils (on average) own two vehicles; and
- a bus turnover age of 12 years (based on estimate age for all bus services)

The Table below shows the potential total cost of this option as \$4.2 million (Net Present Value in 2012).

Table H.5

COSTS OF PROPOSED PHASED TIMEFRAME FOR REMOVAL OF EXCLUSIONS FOR COMMUNITY TRANSPORT

	2017	2022	2027	2032
Compliance requirement in the Transport Standards	25% of buses purchased after 2012	50% of buses purchased after 2012	75% of buses purchased after 2012	100% of buses purchased after 2012
Estimated number of vehicles required to upgrade	240	240	240	240
Additional cost of accessible bus (compared with standard bus)	\$10,000	\$8,000	\$7,000	\$6,000
Total cost of upgrading to accessible bus (over and above the cost of replacing with a standard bus)	\$2.4million	\$1.92million	\$1.68million	\$1.44million
Total cost (NPV) in 2012	\$4.2 million			

Note: Discount rate of 5 per cent used for Net Present Value calculation.

Source: ACG analysis based on price, fleet size and age data sourced from submissions and State and Territory governments

The estimates provided above are considered to be the *least cost* approach to including dedicated school bus services in the Transport Standards. The costs are significantly reduced from those first estimated in the 1999 RIS because:

- the compliance timeframe is more gradual, as it would not require buses to be retrofitted, but rather only require providers to ‘trade up’ to an accessible model at the time when they replace their vehicles (when they reach the end of their economic life); and
- the costs of this ‘trade up’ will reduce over time as accessible vehicles comprise a large proportion of the market.

The benefits of the proposal include increased access for people with disability, with the flow-on benefits of improved social interaction, education opportunities and improved well-being. This proposal also provides greater access for people with mobility impairment to the community services and activities that are commonly accessed through community transport.

Is there a requirement for full RIS analysis?

No, Business cost analysis sufficient.

5. Buses and coaches — exclusions for dedicated school bus services

Step 1: Analysis of the problem — is regulation being considered?

Chapter 9 provides a detailed discussion on the impacts of the exclusions for dedicated school bus services, identifying that they:

- negatively impact on access to transport for students with a disability (primarily those with a mobility impairment);

- negatively impact on the availability of taxi services in regional areas; and
- are likely to reduce availability of the school bus service as a general access service (i.e. school buses may not be allowed to carry general access passengers because they do not meet the Transport Standards).

While the exclusion clearly runs counter to the intention of the Transport Standards, the costs of removing the exclusions may be such that removal cannot be justified on net benefit grounds.

Options to address the problem and impact

The Draft report for this review sought views on a proposal to remove the exclusions for dedicated school bus services from the Transport Standards. Stakeholder comments on the potential removal of the exclusion were divided. Industry and State and Territory governments are strongly opposed to the removal of the exemption on the basis of the costs to providers. Disability organisations support the removal of the exemption on the grounds that the exemption constitutes discrimination.

This final report considers the option of removing the exclusions in the Transport Standards that apply to dedicated school bus services, over an extended time period. This option is assessed against the status quo option (maintain the exclusions).

Are there regulatory options being considered?

Yes, RIS analysis required. A full RIS, with the impact analysis, would be required if this option is to be implemented by government. The following analysis provides a basis for a RIS on this issue, focusing on the cost-benefit elements of a RIS. If this regulatory approach were to be implemented by government, a full RIS would need to be prepared.

Table H.6 sets out the expected impact on business compliance costs of removing the exclusions in the Transport Standards for dedicated school bus services, and Table H.7 sets out the expected competition impacts. On the basis of the potential costs to business or new equipment and materials (i.e. bus purchases), further analysis of the costs and benefits are provided in this section.

Table H.6

POTENTIAL BUSINESS COMPLIANCE COSTS OF PREFERRED APPROACH

Types of costs	Relevance	Type of likely compliance costs
Reporting	No	-
Keeping informed of obligations	Yes	Potential cost for providers if Transport Standards are amended
Seeking permission	No	
Purchase of materials, equipment or external advice	Yes	Where providers are required to purchase a vehicle that complies with the new requirements in the Transport Standards, which they otherwise would not have purchased
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Yes	Potential change for operators in assisting students with disability to access the bus service (though these obligations currently exist to some degree)

Table H.7

'OTHER IMPACTS' CHECKLIST FOR THE REGULATORY OPTION

Will the proposal...	Assessment
Potentially affect the number and range of businesses in an industry?	The requirements may impact very small providers, though these providers would have a strong case on unjustifiable hardship grounds
Potentially change the ability of businesses to compete?	As requirements will be consistent across the sector, there should not be a competitive impact (if anything, this option removes a current distortion in the market by excluding an element from the requirements in the Transport Standards)
Potentially alter the incentive for business to compete?	See above.
Potentially impact on consumers?	Positive impact on students with disability and their families. Positive impact on people with disability seeking to access services which are currently used to transport students with disability (such as WATs)
Potentially have any other impacts on business and individuals or the economy?	None evident at this stage

This review acknowledges the significant costs of the *immediate* removal of the exemption, as presented in Chapter 9 of this report. These relate primarily to:

- the cost of upgrading current vehicles to be accessible for people with mobility impairment, estimated to be:
 - \$30,000 for a light vehicle (sub. DR49)
 - \$40,000 for a heavy vehicle (sub. DR49)
 - \$60,000 for a coach (to fit a ‘lift’ in a coach) (Canberra public hearing transcript, p.15)
- the incremental cost ‘premium’ of purchasing a new low floor accessible bus compared with the cost of a new ‘standard’ bus (estimate to be a maximum of \$100,000).

These costs will be greatest where upgrades are required within a short space of time, or where new vehicles which cannot be retrofitted need to be replaced before the end of their economic life (in this context, this is considered as the period in which the bus fits within the fleet age requirements for school bus contracts).

The commitment in the original development of the Transport Standards, and in the Regulation Impact Statement for the Transport Standards, was to further investigate the inclusion of school bus services into the Transport Standards at a later date, or other options that may improve accessibility of school bus services for students with disability. To date, no further progress has been made against this objective, though this review considers that it would be valuable to consider developing a timeframe for the future inclusion of dedicated school bus services (and investigating what future timeframe would be most appropriate on cost-benefit grounds). The RIS for the Transport Standards flagged this delayed approach as an option for government in addressing this issue, canvassing an option where:

provision in the draft standards for a longer target date for implementation by dedicated school bus operators, enabling them to move to accessible vehicles in the second replacement cycle rather than the first; (this would require them to be accessible within approximately 30 years).

This suggestion in the Transport Standards RIS reflects a potential option to reduce the overall cost impact of removing the exclusion by extending the timeframe for compliance beyond those requirements in the Transport Standards for route bus services and coaches. This approach would reduce costs because:

- it would effectively remove any costs of upgrading or retrofitting existing vehicles because the timeframes would be such that providers would have sufficient forward planning time to purchase an accessible vehicle once their current stock has reached the end of its ‘economic life’; and
- it enables the first ‘wave’ of second hand low floor vehicles currently being purchased for route services to be available for dedicated school bus providers, which would lower the ‘premium’ on low floor buses that currently exists in the second hand bus market (which stakeholders report is driven by a very small supply of these types of buses in the second hand market).

The cost of removing the exclusion for school bus services can be minimised where the school bus fleet can be replaced at 'end of life'. State and Territory Governments usually include a maximum and average age for bus fleets within service contracts. Different jurisdictions have different requirements regarding the age of their school and public transport service bus fleets (information from jurisdictions places this age between 12 and 22 years). These differing requirements (and the replacement of buses used for route services) result in a supply of less expensive, second-hand low floor buses that are frequently employed as school buses in rural and regional areas.

Removing the current exclusions for dedicated school bus services will impose costs on providers, but there are options to minimise these costs through a gradual timeframe for implementation.

The least cost approach to removal of the exclusions would be for providers to be able to fully capture the full economic life of the assets they hold at the time of notification of any change to the requirements in the Transport Standards. In this analysis, the notification date is assumed to be 2012, given the required time for amendments of the Transport Standard to be implemented, and the consistency of this being timed with the next scheduled review of the Transport Standards.

Based on State and Territory data the median maximum vehicle age in a school bus fleet is 17 years, meaning that an implementation start date of 2029 would allow for a new vehicle purchased at the time of the change in the Transport Standards to be fully utilised for its contract term (its 'economic life' as a school bus).

Data collected from State and Territory governments provides an indicate average of the route service fleet is 12 years, suggesting that the first 'tranche' of vehicles purchased to comply with the 2007 requirements of the Transport Standards will be entering the second hand market by 2019, which will have the effect of reducing the 'premium' on low floor vehicles which stakeholders report currently exists in both the new and second hand market. By 2034 (12 years following full compliance requirements in the Transport Standards for buses), the majority of buses entering with second hand market will be vehicles that were required to be compliant with the Transport Standards (this cannot be assumed to be 100 per cent given provisions for unjustifiable hardship and other provisions in the Transport Standards which mean 100 per cent compliance cannot be assumed).

The costs of this option are set out in the Table below. The estimates are based on a start date of 2029 and a phased implementation to 2044. The estimates are based on:

- The cost 'premium' of a low floor bus reducing over time with more of these vehicles entering the market as a result of requirements on route buses under the Transport Standards. It is estimated that this premium decreases from \$80,000 in 2007 to \$10,000 in 2034 (where it remains constant, reflecting the potential that the inclusion of these buses in the second hand market has a price inflation impact).
- A total fleet size of 7200 vehicles in 2029, based on data provided by Queensland, Victoria and New South Wales, scaled to a national estimate. The fleet size is estimated to grow by 10 per cent in the period from 2029 to 2044.

Table H.8 shows the potential total cost of this option as \$31 million (Net Present Value in 2012).

Table H.8

COSTS OF PROPOSED PHASED TIMEFRAME FOR REMOVAL OF EXCLUSIONS FOR DEDICATED SCHOOL BUS SERVICES

	2029	2034	2039	2044
Compliance requirement in the Transport Standards	25%	50%	75%	100%
Number of vehicles required to upgrade (assuming 10% growth in vehicles across the period)	1800	1920	2040	2160
Additional cost of accessible bus (compared with standard bus)	\$22,962	\$10,000	\$10,000	\$10,000
Total cost of upgrading to accessible bus (over and above the cost of replacing with a standard bus)	\$41.3 million	\$19.2 million	\$20.4 million	\$21.6 million
Total cost (NPV) in 2012	\$31.9 million			

Note: Discount rate of 5 per cent used for Net Present Value calculation.

Source: ACG analysis based on price, fleet size and age data sourced from submissions and State and Territory governments

The estimates provided above are considered to be the *least cost* approach to including dedicated school bus services in the Transport Standards. The costs are significantly reduced from those first estimated in the 1999 RIS because:

- the compliance timeframe is more gradual, as it would not require buses to be retrofitted, but rather only require providers to ‘trade up’ to an accessible model at the time when they replace their vehicles (when they reach the end of their economic life); and
- the costs of this ‘trade up’ are lower than would be the case if the requirement were introduced immediately because the availability of second hand route buses for use as school buses will reduce the cost premium on these models.

The potential benefits of this option are difficult to measure, primarily because, given the long lead time of these requirements, it would require an estimate of the population of students requiring this access from 2029 onwards. It is important to note the potential benefits of this access not just in terms of the number of students, but the length of time that this access will be provided (potentially 12 years per student) and the avoided costs for families of having a directly accessible service.

6. Air travel — application of conditions on air travel

Step 1: Analysis of the problem — is regulation being considered?

There are two important areas where, with the Transport Standards providing no guidance, airlines have developed their own policies for people with disability:

- carriage of mobility aids; and
- independent travel criteria.

These issues are discussed in detail in Chapters 5 and 9 of this report. Reported difficulties experience by people with disability when travelling by air reflect the uncertainty of obligations and rights for the two aspects noted above. The application of independent travel criteria has resulted in some people with disability being required to travel with a carer. The Transport Standards currently provide no guidance on whether the application of these criteria constitutes discrimination under the DDA.

Options to address the problem

There are two key issues that need to be resolved. The first is to agree to a consistent approach for the carriage of mobility aids, which can be included in the modal guidelines. Agreeing to this guideline would be a task for the modal sub committee. It would take into account the current policies and seek to agree a consistent service approach. This proposal would greatly increase certainty for people with disability in air travel. These requirements would need to be specified by aircraft size.

Table H.9

POTENTIAL BUSINESS COMPLIANCE COSTS

Types of costs	Relevance	Scale of likely compliance costs
Reporting	No	
Keeping informed of obligations	Yes	Airlines would need to update staff and information sources (i.e. websites) with the new standards
Seeking permission	No	
Record keeping	No	
Audits or inspections	No	
Producing documents	No	
Other changes to procedure or practices	Yes	Moving to a standard approach of carriage of mobility aids will impact on airline practices. The extent to which this occurs will vary across carriers, depending on their current practices.

The second issue — independent travel criteria — is more complex, and is likely to rely on a determination from the Federal Court. Prior to this decision, this review cannot pre-empt the decision, though would recommend that following the Federal Court decision, the basis of the decision be included in modal guidelines.

Are there regulatory options being considered?

The preferred approach to addressing this issue it to use the proposed modal guidelines to clarify actions that airlines should take in relation to carriage of mobility aids. Any guideline would form part of an air travel modal guideline, therefore the costs and benefits would be assessed under the development of that option (see Appendix G).

Appendix I

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