

**REPORT on the REVIEW of DISABILITY STANDARDS for
ACCESSIBLE PUBLIC TRANSPORT
MARCH 2008**

**PREPARED for the NSW MINISTRY OF TRANSPORT
& HREOC (ATTORNEY GENERAL'S DEPARTMENT)**

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Views expressed by PDCN Inc. are not
necessarily endorsed by the NSW Government.*

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1. EXECUTIVE SUMMARY

The Physical Disability Council of NSW (PDCN) would like to thank Commonwealth and State government departments for providing the opportunity for implementation of the NSW DDA Transport Standards (2002), and the opportunity to comment on the first review.

It is understood that thirty years is required to fully implement accessible public transport across all modes of transport. This is due to the large scale of works, the differing skills and resources of many private and public transport operators, and the large number of stakeholders. The following issues concern PDCN:

- Thorough accountability is required. There are significant variances between reported data and the constituency;
- There lacks of an independent audit process to ensure that transport conveyances, infrastructure and premises comply with the DDA Transport Standards;
- The lack of an effective complaints mechanism , due to the large number of stakeholders involved in the funding, planning, design and construction of transport facilities; and
- Defences such as unjustifiable hardship which destroy the effectiveness of the DDA.

2. SUMMARY OF RECOMMENDATIONS FORWARDED by the PHYSICAL DISABILITY COUNCIL of NSW

Recommendation 1: PDCN recommends the implementation of a Technical Expert Group to advise on the following:

- I. Review technical amendments proposed by this review;
- II. Consider current exemptions as amendments to the Transport Standards when they expire; and
- III. Consider the feasibility of incorporating safety requirements into the Transport Standards.

Recommendation 2: Listed from Table 1 – Suggested amendments requiring revision, PDCN considers the following identified technical issues as most significant:

- I. Part 6.4 – Prescribed slope of ramp;
- II. Part 9.1 – Minimum size of allocated space;
- III. Part 9.3 – Minimum headroom targets;
- IV. Part 12.5 – Vertical door targets in taxis and head height along direct path of travel from door to allocated space; and
- V. Part 30.1 – Maximum weight, size and number of disability aids to be carried on aircraft

Recommendation 3: PDCN recommends the following to ensure the safety of the transport provider and passenger:

- I. That a ramp with a minimum 1:12 gradient be used for assisted travel; and
- II. That the allocated space be a minimum of 1300 mm-length, 800 mm-width and 1500 mm in height.

Recommendation 4: As per recommendation 7 of the original submission forwarded by the Physical Disability Council of NSW in August 2007:

Recommendation 7: Human Rights Equal Opportunity Commission review the exemption on dedicated school buses.

Recommendation 5: PDCN recommends that Section 1.23 (2a) of the Transport Standards be amended so that all community transport services, including those funded by or subsidized by charity or public money are available to people with a disability and older people.

Recommendation 6: PDCN recommends that each Modal Sub-committee would need to be represented by a wide selection of membership including;

- Selection of Disability Peaks
- Design and technical expertise
- Peak industry bodies
- Legal representation

Recommendation 7: PDCN recommends that a separate Modal Sub- committee be set up for the following:

- Conveyances, infrastructure and premises used by public, private buses and community transport,
- Conveyances, infrastructure and premises used by CityRail and CountryLink
- Conveyances, infrastructure and premises used by ferry operators,

- Conveyances, infrastructure and premises used by airline operators, and
- Conveyances, infrastructure and premises used by the taxi industry (With expertise regarding WATS and regular taxis)

Recommendation 8: That the Attorney General's Department clearly identifies whether a 'mobility aid' includes any or all of the following:

- Scooters with a maximum speed of more than 10 kilometres per hour;
- Scooters with a maximum speed of 10 kilometers per hour or less;
- Motorised wheelchairs with a maximum speed of more than 10 kilometres per hour;
- Motorised wheelchairs with a maximum speed of 10 kilometers per hour or less;
- Manual wheelchairs;
- Crutches, or walking frame; or
- Assistance dog.

Recommendation 9: PDCN recommends that the Accessible Public Transport Standards use criteria already available in the Australian Design Standards and within the Australian Road Rules, rather than introducing new criteria to identify mobility aids.

Recommendation 10: It is recommended by PDCN that the manufacturer identify mobility aids that comply with these standards with a symbol indicating compliance.

Recommendation 11: PDCN recommends that the Attorney General's Department to introduce the following mechanisms to ensure compliance with the Disability Discrimination Act (1992);

1. National Accessible Public Transport Standards;
2. Increased accountability through State Plans;
3. Introduction of legislation with penalties for non-compliance; and
4. Removal of defenses within the existing *Disability Discrimination Act (1992)*, such as the 'Unjustifiable Hardship clause'.

Recommendation 12: PDCN believes that performance objectives used need to be consistent across Australia for all stakeholders, before an effective reporting mechanism can be introduced. Subsequently it would be necessary for the Attorney General's Department to introduce national DDA Transport Standards, before adopting a reporting mechanism.

Recommendation 13: PDCN recommends that only data obtained as part of mainstream surveys that represent the whole community, be used to identify changes in transport patronage.

3. SIGNIFICANCE OF DISABILITY DISCRIMINATION LEGISLATION

The Senate Legal and Constitutional References Committee has summarised citizenship as consisting of the following four linked elements:

- (demonstrating) the quality of full membership and active participation;
- (occurring) in a just, democratic and mutually supportive political community;
- including the individual and collective rights and responsibilities – legal, social, economic, cultural and environmental – that go with such membership; and

- (having) the public and private policies and resources needed to sustain it.¹

4. THE PHYSICAL DISABILITY COUNCIL OF NSW (PDCN)

About The Physical Disability Council of NSW

The Physical Disability Council of NSW Inc (PDCN) is the peak body representing people with physical disabilities in NSW.

PDCN was formed in late 1994 by a group of people with physical disabilities, committed to change, and received seed funding in 1995. Today, PDCN is funded by the NSW Department of Ageing, Disability and Home Care.

Our Philosophy: “Ordinary People: Ordinary Lives”

PDCN believes that people with physical disabilities need to have the opportunity to make ordinary life choices, to lead the lives they want to lead, in the manner of their choosing. In short, to have the same choices and opportunities as everyone else in the community.

People with physical disabilities are not special, extraordinary people, transcending their disabilities, but ordinary people wanting to create a life for themselves. Some will become extraordinary achievers in their chosen paths, but this will be as a result of the original ordinary choices and paths taken, not due to disability. These ordinary lives are brought about by the creation of “level playing fields” from which people with physical disabilities are able to choose their paths in life.

These “level playing fields” consist of systems, structures, programmes and funding throughout the community that support an individual to make ordinary choices. Equal access to education, employment, housing, health, recreation, leisure, together with personal assistance, equipment, accessible public transport, accessible buildings and facilities are all examples of the components of these “level playing fields”. In isolation these individual components have minimal impact.

Our Vision: “Creating change through collaborative leadership”

Our Mission: We do this by representing people in NSW who experience physical disability, using community development approaches.

Our Values:

- Integrity
- Inclusion – within the community
- Committed – to our philosophy
- Independence – without fear or favour
- Communication

Our Key Priority Areas

- Reform
- Research
- Governance
- Organisational Development

¹ Productivity Commission Inquiry into the DDA (2003), Disability Council of NSW.

5. 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 14 December 2007 for consideration by the Minister for Transport and Regional Services in consultation with the Attorney-General.

Terms of Reference identified in the Review of the TRANSPORT STANDARDS for ACCESSIBLE PUBLIC TRANSPORT

Draft Recommendation 1

Australian Public Transport Jurisdictional Committee (APTJC) establish a technical expert group to:

- I. Review technical amendments proposed by this review;
- II. Consider current exemptions as amendments to the Transport Standards when they expire; and
- III. Consider the feasibility of incorporating safety requirements into the Transport Standards.

Draft Recommendation 2

The exclusions for dedicated school buses be removed and school bus services be included in the Transport Standards on a delayed compliance timetable.

Draft Recommendation 3

Amend the exclusion for community bus services to include in the Transport Standards those community services whose purpose is to service people with a disability and older people.

Draft Recommendation 4

Modal sub-committees are appointed by APTJC to develop Guidelines under the Transport Standards by mode of public transport. These Guidelines to be developed in consultation with APTJC.

Draft Recommendation 5

An APTJC sub-committee to develop a national scheme for labeling mobility aids based on the specifications in the Transport Standards, and establish a clearinghouse of best practice examples of accessible public transport.

APTJC agree individual jurisdictions take lead in maintaining these schemes.

Draft recommendation 6

HREOC to be provided with powers to refer cases of breaches of the Transport Standards directly to the Federal Court.

Draft Recommendation 7

APTJC develop a mandatory reporting framework for Commonwealth, State and Territory Governments and implement framework by end 2008.

Draft Recommendation 8

The Australian Bureau of Statistics to include a question on public transport patronage in surveys of people with disabilities.

Draft recommendation 9

APTJC and APTNAC agree a new consultative framework with additional responsibilities to both committees.

This framework should include:

- Increased meeting frequency for both committees, to a minimum of four meetings per year, to account for increased activities;
- Accessible Public Transport Jurisdictional Committee to coordinate modal sub-committees, a technical expert group and sub-committee on labelling mobility aids
- Accessible Public Transport Jurisdictional Committee to report on progress of these initiatives to the Accessible Public Transport National Advisory Committee, and seek advice from the Accessible Public Transport National Advisory Committee on implementing these recommendations
- An Accessible Public Transport Jurisdictional Committee reporting sub-committee with the task of developing a new reporting framework by the end of 2008.

6. COMPLIANCE TIMETABLE

The Disability Standard for Accessible Public Transport set down a timetable for compliance for all operators. The timetable is shown in the table below.

| Aspect of service | 5yrs | 10yrs | 15yrs | 20yrs | 30yrs |
|---------------------------|-------------|--------------|--------------|--------------|--------------|
| Information | 100% | | | | |
| Infrastructure* | 25% | 55% | 90% | 100% | |
| Bus Stops | 25% | 55% | 90% | 100% | |
| Bus services | 25% | 55% | 80% | 100% | |
| Coach services | 25% | 55% | 90% | 100% | |
| Rail rolling stock | 25% | 55% | 90% | 90% | 100% |
| Taxi services | ** | | | | |

* Vending machines, gateways, surfaces, handrails and grabrails must be 100% compliant after 10 years.

** Response times to be the same as for any taxi service

The Commonwealth Standards assist with greater definition, certainty and flexibility in achieving non-discriminatory accessible services and apply to all operators and the transport vehicles they use to provide transport services and to providers, supporting premises and infrastructure. They specify certain requirements for buses, trains, stations, bus stops, bus/rail interchanges, ferries and wharves and access to information, including access paths, manoeuvring areas, resting points, waiting areas, ramps, signs, lifts, toilets, doorways, information services, allocated spaces, payment of fares, surfaces, lighting and handrail and grab-rails.

7. **DISCUSSION**

Draft Recommendation 1 (Identified in the draft Review)

Australian Public Transport Jurisdictional Committee (APTJC) establish a technical expert group to:

- I. Review technical amendments proposed by this review;
- II. Consider current exemptions as amendments to the Transport Standards when they expire; and
- III. Consider the feasibility of incorporating safety requirements into the Transport Standards.

Recommendation 1: PDCN recommends the implementation of a Technical Expert Group to advise on the following:

- I. Review technical amendments proposed by this review;
- II. Consider current exemptions as amendments to the Transport Standards when they expire; and
- III. Consider the feasibility of incorporating safety requirements into the Transport Standards.

Recommendation 2: Copied from Table 1 of the draft Review – Suggested amendments requiring revision, PDCN considers the following identified technical issues as most significant:

- Part 6.4 – Prescribed slope of ramp;
- Part 9.1 – Minimum size of allocated space;
- Part 9.3 – Minimum headroom targets;
- Part 9.5 – Vertical door targets in taxis and head height along direct path of travel from door to allocated space; and
- Part 30.1 – Vertical door targets in taxis and head height along direct path of travel from door to allocated space and maximum number of disability aids that can be carried on aircraft.

Recommendation 3: PDCN recommends the following to ensure the safety of both the transport provider and passenger:

- I. That a ramp with a minimum 1:12 gradient be used for assisted travel; and

- II. That the allocated space be a minimum of 1300 mm- length, 800 mm- width and 1500 mm in height.

Following the creation of the Technical Expert Group, PDCN supports the suggested recommendation to provide advice on the following:

- I. Review technical amendments proposed by this review;
- II. Consider current exemptions as amendments to the Transport Standards when they expire; and
- III. Consider the feasibility of incorporating safety requirements into the Transport Standards.

Without appropriate technical expertise, the Accessible Public Transport Jurisdictional Committee (APTJC) cannot advise the Accessible Public Transport National Advisory Committee (APTNAC). With this existing flaw, accurate, quality information may not be forwarded on to the Australian Passenger Transport Group (APTG), then to the Standing Committee on Transport (SCOT), and then to the Australian Transport Council (ATC).

Representation of the Accessible Public Transport Jurisdictional Committee (APTJC) includes the following Government delegates:

- I. Australian Government Department of Infrastructure, Transport, Regional Development and Local Government; (DITRDLG)
- II. Membership from each State and Territory; and
- III. Australian Government Attorney-General's Department (AGD) is an observer on the Committee.

Strategies and recommendations are forwarded through the APTJC to the APTNAC, and the APTNAC is made up of the following representatives:

- Peak industry bodies including the Bus Industry Confederation, Australian Taxi Industry Association, Australasian Railway Association, Qantas, Virgin Blue, Australian Airports Association, Regional Aviation Association of Australia and the International Association of Public Transport;
- Disability representation including the National Disability and Carer Ministerial Advisory Committee and the Australian Federation of Disability Organisations,
- State and Territory Governments;
- Australian Local Government Association;
- Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government;
- Human Right and Equal Opportunity Commission (HREOC) and the Attorney-Generals' Department (AGD) have observer status at the meetings; and
- Representatives from other organisations maybe invited when needed.

Without technical expertise on the APTJC, PDCN believes that the dominance of peak industry bodies on the APTNAC, important feedback could easily be disregarded by the APTJC.

PDCN supports the recommendation of a Technical Experts Group to review technical amendments included in this Review. Copied from Table 1 of the draft Review-Suggested

amendments requiring revision, PDCN considers the following identified technical issues as most significant:

- I. Part 6.4 – Prescribed slope of ramp;
- II. Part 9.1 – Minimum size of allocated space;
- III. Part 9.3 – Minimum headroom targets;
- IV. Part 12.5 – Vertical door targets in taxis and head height along direct path of travel from door to allocated space; and
- V. Part 30.1 – Maximum weight, size and number of disability aids to be carried on aircraft.

Table 1 – Suggested amendments requiring revision

| Parts | Technical issues | Recommended amendment |
|----------------|---|---|
| Part 2.1 | Access paths | Amend description of an access path from clearly defined to 'unhindered' |
| 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 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 1:14 ramps for assisted access (given OH+S concerns) |
| Part 8.5 | Width of a boarding device on aircraft | Develop an alternative requirement, taking into account the width of doors on smaller planes |
| Part 9.1 | Minimum size of 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 |

Table 1 cont'

| Parts | Technical issues | Recommended amendment |
|-------------------|---|---|
| Part 17.7 | The profile of raised lettering on taxis and the provision of raised taxi registration numbers on the inside of taxis | Establish a requirement for lettering on the inside and outside of all taxis |
| 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 tram and train infrastructure |
| Part 30.1 | Maximum weight and size for disability aids to be carried on aircraft | Set requirements around what are reasonable limits to dimensions and weight for mobility aids for air travel (similar to ramp limits for other conveyances) |
| Part 30.1 | Maximum number of disability aids that can be carried on aircraft | Establish a number of mobility aids that aircraft can reasonably expect to carry |

To avoid conflicting legislation, or any potential safety hazard to either the transport operator or passenger, PDCN recommends implementation of the following technical standards as a minimum:

- I. That a ramp with a minimum 1:12 gradient be used for assisted travel; and
- II. That the allocated space be a minimum of 1300mm-length, 800mm-width and 1500mm in height.

PDCN strongly supports the suggestion made in the Review, to provide the Technical Experts Group with jurisdictional responsibilities to review requests for temporary exemptions relevant to accessible public transport, and to consider current exemptions as amendments to the DDA Transport Standards when they expire. This strategy would have the potential of minimising the current inappropriate use of the temporary exemption process.

Consequently if this new responsibility was to be adopted, the Technical Experts Group would provide advice over the only pending relevant decision in NSW, that being for Rex Express. This application for temporary exemption argues that the DDA jeopardizes the following:

- I. Aircraft operational and performance limitations;

- II. OHS concerns for the crew;
- III. Equipment being operating around the aircraft; and
- IV. The dignity and comfort of disabled passengers.

Due to the significance of one other application submitted previously by the Australian Railway Association, PDCN agrees that this application should not be considered within the draft recommendation proposed as part of this Review.

The draft Review identifies potential conflicts due to objects identified in the DDA Transport Standards and OHS. As this inconsistency may potentially be used as a defence against compliance with the DDA, PDCN supports the draft recommendation that this additional technical expertise on the APTJC may minimise conflicts arising between stakeholders.

For passengers with physical disabilities, OHS issues are most frequently identified by transport operators' where assisted travel in and out of the conveyance with a portable ramp is the only option.

Draft Recommendation 2 (Identified in the draft Review)

The exclusions for dedicated school buses be removed and school bus services be included in the Transport Standards on a delayed compliance timetable.

Recommendation 4: As per recommendation 7 of the original submission forwarded by the Physical Disability Council of NSW in August 2007:- Recommendation 7: Human Rights Equal Opportunity Commission review the exemption on dedicated school buses.

As potential users of public transport, all children whether they have a disability or not, need to be encouraged to use all modes of accessible transport to promote independence. Other benefits include community integration and inclusion.

Section 1.13 (1) and (2) of the Transport Standards refer to a dedicated school bus and a dedicated school bus service as:

1. A bus is a dedicated school bus only during the time in which it is being used to provide a dedicated school bus service.
2. A dedicated school bus service is a service that operates to transport primary and secondary students to and from school or for other school purposes.

In summary the current exclusions included in the DDA Transport Standards include the following regarding dedicated school buses:

- Provision of a boarding device;
- Availability of handrails and/ or grabrails;
- Allocation of dedicated spaces;
- Provision on non-slip surfaces; and
- Compliant automatic or power-assisted doors.

PDCN considers that when considering the cost of installation, potential OHS risks and the possibility of discrimination, installation of compliant automatic or power-assisted doors has least priority when considering other existing exclusions.

Funding sources may include:

- I. School Subsidy Transport Scheme (SSTS) for the acquisition and maintenance of accessible vehicles, and/ or
 - II. Through the replacement of old school buses with newer accessible vehicles.
-

Draft Recommendation 3 *(Identified in the draft Review)*

Amend the exclusion for community bus services to include in the Transport Standards those community services whose purpose is to service people with a disability and older people.

Recommendation 5: PDCN recommends that Section 1.23 (2a) of the Transport Standards be amended so that all community transport services, including those funded by or subsidized by charity or public money, are available to people with a disability and older people.

As potential users of public transport, all children whether they have a disability or not, need to be encouraged to use all modes of accessible transport to promote independence. Other benefits include community integration and inclusion.

PDCN recommends that Section 1.23 (2a) of the DDA Transport Standards be amended so that all community transport services are available to people with a disability and older people. The current section stipulates that community transport conveyances that are funded or subsidised by charity or public money are exempt from the DDA Transport Standards, and this limits the availability of this mode of accessible public transport.

In many parts of regional and rural NSW where accessible public transport is not available or otherwise infrequent, community transport may be the only option available, and hence needs to be made available even in rural areas even where population density is low.

New information processes

Draft Recommendation 4 *(Identified in the draft Review)*

Modal sub-committees are appointed by APTJC to develop Guidelines under the Transport Standards by mode of public transport. These Guidelines to be developed in consultation with APTJC.

Recommendation 6: PDCN recommends that each Modal Sub-committee would need to be represented by a wide selection of membership including;

- Selection of Disability Peaks
- Design and technical expertise
- Peak industry bodies
- Legal representation

Recommendation 7: PDCN recommends that a separate Modal Sub- committee be set up for the following:

- Conveyances, infrastructure and premises used by public, private buses and community transport,
- Conveyances, infrastructure and premises used by CityRail and CountryLink
- Conveyances, infrastructure and premises used by ferry operators,
- Conveyances, infrastructure and premises used by airline operators, and
- Conveyances, infrastructure and premises used by the taxi industry (With expertise regarding WATS and regular taxis)

PDCN supports the adoption of modal sub- committees to advise the APTJC on specific issues relevant to each mode of transport. Due to the specific differences in each mode of transport, the draft Review identifies difficulties in applying the DDA Transport Standards to different types of conveyances, particularly with the airline industry. These difficulties do not appear to be relevant to whether using standards based on performance or prescriptive criteria.

Each Modal Sub-committee would need to be represented by a wide selection of membership including;

- Selection of Disability Peaks
- Design and technical expertise
- Peak industry bodies
- Legal representation

PDCN recommends that a separate Modal Sub-committee be set up for the following:

- Conveyances, infrastructure and premises used by public, private buses and community transport,
- Conveyances, infrastructure and premises used by CityRail and CountryLink
- Conveyances, infrastructure and premises used by ferry operators,
- Conveyances, infrastructure and premises used by airline operators, and
- Conveyances, infrastructure and premises used by the taxi industry (With expertise regarding WATS and regular taxis)

Draft Recommendation 5 (*Identified in the draft Review*)

An APTJC sub-committee to develop a national scheme for labelling mobility aids based on the specifications in the Transport Standards, and establish a clearinghouse of best practice examples of accessible public transport.

APTJC agree individual jurisdictions to take lead in maintaining these schemes.

Recommendation 8: That the Attorney General's Department clearly identifies whether a 'mobility aid' includes any or all of the following:

- Scooters with a maximum speed of more than 10 kilometres per hour;
- Scooters with a maximum speed of 10 kilometers per hour or less;
- Motorised wheelchairs with a maximum speed of more than 10 kilometers per hour;
- Motorised wheelchairs with a maximum speed of 10 kilometers per hour or less;
- Manual wheelchairs;

- Crutches, or walking frame; or Assistance dog;
- Crutches, or walking frame; or Assistance dog.

Recommendation 9: PDCN recommends that the Accessible Public Transport Standards use criteria already available in the Australian Design Standards and within the Australian Road Rules, rather than introducing new criteria to identify mobility aids.

Recommendation 10: It is recommended by PDCN that the manufacturer identify mobility aids that comply, with a symbol indicating compliance.

PDCN recommends that the DDA Transport Standards use criteria already available to distinguish between mobility aids, such as within the Australian Standards and identified in the Australian Road Rules, rather than introducing a new bureaucracy to define compliant mobility aids.

In a recent decision for temporary exemption, HREOC identified the following dimensions for an allocated space as; 800 mm by 1300 mm (AS1428.2 (1992) clause 6.1- Clear floor or ground spaces for a stationary wheelchair).² Using the criteria used for an allocated space, with the Australian Road Rules, a clear distinction can be made between a vehicle permitted for road and a mobility that is not. *Division 2 Road users and vehicles, 15(e)*, of the Australian Road Rules identifies a list of vehicles permitted for road use, including; *(e) a motorized wheelchair that can travel at over 10 kilometres per hour (on level ground), but does not include another kind of wheelchair, a train, or a wheeled recreational device or wheeled toy.*³

Furthermore it is recommended by PDCN that the manufacturer identify mobility aids that comply with a symbol indicating compliance.

Draft Recommendation 6 (*Identified in the draft Review*)

HREOC to be provided with powers to refer cases of breaches of the Transport Standards directly to the Federal Court.

Recommendation 11: PDCN recommends that the Attorney General's Department to introduce the following mechanisms to ensure compliance with the *Disability Discrimination Act* (1992);

1. National Accessible Public Transport Standards;
2. Increased accountability through State Plans;
3. Introduction of legislation with penalties for non-compliance; and
4. Removal of defences within the existing *Disability Discrimination Act* (1992), such as the 'Unjustifiable Hardship' clause.

² Human Rights and Equal Opportunity Commission – *Response to the temporary exemption* submitted by the Australian Railway Association

http://www.humanrights.gov.au/disability_rights/exemptions/ara/dec.htm

³ Australian Road Rules (1999). Australian Attorney General's Department

PDCN understands that the current jurisdictional powers of HREOC do not allow powers to bring non-compliance to the notice of the Federal Court without having a complainant. Rather than introducing additional powers to HREOC, PDCN would encourage greater compliance with the *Disability Discrimination Act* (1992). PDCN recommends that the Attorney General's Department to introduce the following mechanisms to ensure compliance with the *Disability Discrimination Act* (1992);

1. National Accessible Public Transport Standards;
2. Increased accountability through State Plans;
3. Introduction of legislation with penalties for non-compliance; and
4. Removal of defenses within the existing Disability Discrimination Act (1992), such as the 'Unjustifiable Hardship clause.

Reporting and data collection

Draft Recommendation 7 *(Identified in the draft Review)*

APTJC develop a mandatory reporting framework for Commonwealth, State and Territory Governments and implement framework by end 2008.

Recommendation 12: PDCN believes that performance objectives used need to be consistent across Australia for all stakeholders, before an effective reporting mechanism can be introduced. Subsequently it would be necessary for the Attorney General's Department to introduce Commonwealth DDA Transport Standards, before adopting a reporting mechanism.

To ensure consistency PDCN supports the development of a mandatory national reporting system, though this can only be achieved after introducing Commonwealth DDA Transport Standards.

Draft Recommendation 8 *(Identified in the draft Review)*

The Australian Bureau of Statistics to include a question on public transport patronage in surveys of people with disabilities.

Recommendation 13: PDCN recommends that only data obtained as part of mainstream surveys that represent the whole community, be used to identify changes in transport patronage.

To ensure consistency PDCN supports the development of a mandatory national reporting system, though this can only be achieved after introducing Commonwealth DDA Transport Standards.

PDCN recognises that information on patronage could assist with determining the effectiveness of removing discrimination for people with a disability, though information needs to be obtained only from mainstream surveys and customer feedback, and not where survey results are dependent only on subjects with obvious disabilities or on those that volunteer to participate.

Currently the Australian Bureau of Statistics (ABS) provides the following three sources of information regarding disability:

- 2006 Australian Bureau of Statistics Census (ABS);
- Commonwealth State Territory Disability Agreement (CSTDA); and
- Survey of Disability, Ageing and Carers.

Only when data obtained from the ABS is representative of the whole community, will PDCN support any recommendation that data reflecting changes in patronage, should be sought from the ABS.

New consultative framework

Draft Recommendation 9 *(Identified in the draft Review)*

APTJC and APTNAC agree a new consultative framework with additional responsibilities to both committees.

This framework should include:

- *Increased meeting frequency for both committees, to a minimum of four meetings per year, to account for increased activities;*
- *Accessible Public Transport Jurisdictional Committee to coordinate modal sub-committees, a technical expert group and sub-committee on labelling mobility aids*
- *Accessible Public Transport Jurisdictional Committee to report on progress of these initiatives to the Accessible Public Transport National Advisory Committee, and seek advice from the Accessible Public Transport National Advisory Committee on implementing these recommendations*
- *An Accessible Public Transport Jurisdictional Committee reporting sub-committee with the task of developing a new reporting framework by the end of 2008.*

To ensure increased accountability it is recognised that both the APTJC and the APTNAC will need to meet more regularly, particularly with the additional role and responsibilities of the APTJC.

8. Limitations of 'Review of Disability Standards for Accessible Public Transport'

The draft 'Review of Disability Standards for Accessible Public Transport' fails to recognise the following:

- **Assisted travel** – That assisted travel is an acceptable option for transporting passengers with disabilities. For a passenger needing assisted travel to use a train, they still need to depend on the availability of staff to assist with boarding the train, staff to effectively relay travel plans to staff at the destination station, and again for staff to be available to assist the passenger to disembark the train.
- **Changes in technology and service delivery** – In a constantly changing environment, legislators and government bodies need to recognise that changes in technology and/or the delivery of services need to be considered before implementation and within the review process. Such as the introduction of pre-pay bus fares recently introduced by State Transit, where bus fares are no longer handled by the bus driver, but purchased from private agents, such as newsagents and general stores, where access is often not available. Hence this new efficiency introduced by State Transit is inconsistent with objects of the DDA.

- **Relevance of Appendix C** – Appendix C ‘Applicability of the Transport Standards by mode of Transport’ of the draft Review is misleading particularly when considering the WAT service. When using Wheelchair Accessible Taxis hailing a taxi from the street or from a taxi stand is not an option, and nor is booking a taxi using a pre-paid phone or the internet an option, and these appear to have been included in the draft Review.
- **Electronic and printed information** – The Review provides little feedback on the availability of accurate, reliable information electronically or in print, from both public and private transport operators.
- **Inconsistencies in data provided** – It needs to be noted that data provided in the ‘Summary of Accessible Transport and Services – as at 30 June 2007 – differs from that advertised by transport operators as being available to passengers with disabilities. Such as when a transport operator, has not designated the accessible conveyance to a regular transport route, or that the conveyance does not conform with the DDA Transport Standards.⁴ Greater accountability is required to ensure accuracy, and greater

⁴ NSW Ministry of Transport, *Accessible Transport Action Plan for NSW Transport, Roads and Maritime Agencies*