



MINISTRY OF TRANSPORT

# **Submission to the Five Year Review of the Disability Standards for Accessible Public Transport**

## **1.0 EXECUTIVE SUMMARY**

### *1.1 NSW Stakeholder Consultation Forum*

To assist in informing its response on compliance and matters raised in the Issues Paper, the Ministry conducted a stakeholder forum for people with disabilities, government agencies and transport industry representatives on 2 August 2007. A list of stakeholders is at Appendix One. An opportunity was provided for stakeholders to provide comments and suggestions and, where relevant, these have been included in the submission.

### *1.2 Current Compliance*

NSW has the largest passenger transport task in Australia with the Greater Sydney Metropolitan Area having the country's highest percentage of public transport use - 22% of commuters and 12% of all weekday travellers use public transport regularly. NSW maintains Australia's largest rail, bus and ferry networks to meet this demand.

To improve accessibility to this transport system, the NSW Government has spent approximately \$1.5 billion since the mid 1990s on accessible transport infrastructure and services. This includes approximately \$420 million on rail infrastructure, \$700 million on accessible rail rolling stock (including \$466 million on 141 'Millennium' carriages), \$300 million on the purchase of accessible buses and \$65 million for the construction and upgrading of wharves.

Currently, 32% of CityRail stations are accessible with approximately 70% of CityRail's passengers travelling through an 'easy access' station. 35.44% of all Sydney Metropolitan buses are currently accessible and work is continuing to provide reports on the accessibility of bus services. In addition, 46% of all Sydney Harbour Commuter wharves are accessible. In Outer Metropolitan areas, approximately 17% of buses are currently accessible but in rural and regional areas, reporting arrangements are not yet in place to provide an accurate estimate. Response times for Wheelchair Accessible Taxis (WATs) do not currently meet compliance requirements but are improving.

Access to both CityRail and Sydney Ferries' services are by direct assistance which is vital to improving accessibility in NSW given current infrastructure configuration constraints for rail infrastructure and tidal variation at commuter ferry wharves. While NSW is continuing to improve the provision of transport information, this is not currently completely accessible for people with disabilities. NSW is aware of the need to continue improving staff training in disability awareness to ensure that the provision of direct assistance (including information provision) complies with the requirements of the Transport Standards.

Bus and ferry service providers have identified particular difficulties with the provision of infrastructure by local councils. Currently, many local government authorities, particularly in rural and regional areas, are either unaware of the

compliance requirements of the Transport Standards or are unable to fully fund the task of rendering existing infrastructure accessible.

### *1.3 Clarification of Obligations*

To clarify obligations and develop strategies for removing barriers to access, the NSW Transport Portfolio utilises the NSW disability action planning process. The first Accessible Transport Action Plan was published in December 2002. An update was published in June 2005 and a new revision is underway with completion anticipated in late 2007. The Ministry of Transport (the Ministry) has also been active in providing disability action planning information to bus operators, local government, community transport providers and the taxi industry.

The Ministry notes that there is currently no legal precedent to assist in defining the extent of unjustifiable hardship permitted for particular operators and that compliance should be achieved to the maximum extent not involving unjustifiable hardship. However, transport operators in particular have identified a lack of certainty over the definition of 'unjustifiable hardship' as hindering their ability to make longer term, high capital cost commitments to accessibility.

The Ministry does not agree with statements from the Australian Taxi Industry Association (ATIA) that taxi networks and co-operatives should not be responsible for response time compliance. The Ministry maintains that response times are the most appropriate measure and taxi networks and co-operatives the most appropriate bodies to manage compliance.

In regard to referencing Australian Standards in the Transport Standards, the Ministry supports any moves to include more detail in the Transport Standards but considers that the Commonwealth should conduct a review of this issue to ensure that optimum outcomes are achieved for all stakeholders.

### *1.4 Flexibility of Approach*

As indicated at 1.1, NSW will need to rely on the use of direct assistance for the provision of access to rail and ferry services and for the provision of some information.

In regard to matters in the Transport Standards that are based on requirements for premises, such as accessible toilets and stairs, the Ministry would support any action by the Commonwealth to provide a more performance based standard taking into account the constraints applied by public transport conveyance widths.

### *1.4 Consistency and Compatibility of Compliance*

At a meeting of the Australian Transport Council in 1999, NSW endorsed the Transport Standards on the basis that the Commonwealth should provide sufficient funding for their full implementation and NSW continues to support

the provision of Commonwealth funding where appropriate to enhance accessible transport provision. The Ministry considers that, although responsibility for the DDA and Transport Standards lies with the Commonwealth, there has been little co-ordination of the compliance task by the Commonwealth.

In particular, the Commonwealth has apparently given little consideration to the provision of sufficient accessible infrastructure by local government and its 'Welfare to Work' initiative did not apparently consider that the transfer of people with disabilities from welfare to the workforce will require increased public transport access. There was no consultation with transport providers before this initiative was announced.

*Better Together*, launched by the NSW Premier, the Hon Morris Iemma MP, outlines a new direction for NSW Government services to work better for people with a disability and their families. In recognition of the importance of transport access for supporting *Better Together* objectives – promoting participation of people with a disability in all aspects of community life – *Better Together* identifies improving co-ordination of the NSW Government's investment in accessible infrastructure as one of its priority areas.

Another issue of compatibility is the size and suitability of mobility devices for public transport use. While the size of some mobility devices prevents some persons from accessing public transport conveyances, transport operators have indicated that there are considerable concerns regarding the safety of mobility devices for both their occupants and other passengers in the event of a serious incident. This is also related to the issue of the lack of 'connection' between the requirements of Australian Design Rules (ADRs) and the Transport Standards. The Ministry of Transport considers that the Commonwealth should take the lead to rectify these problems at the design stage and to provide some measure of certainty regarding the suitability of mobility devices for public transport use.

### 1.5 *Certainty of Process*

People with disabilities have suggested that the Human Rights and Equal Opportunities Commission (HREOC) should be given similar powers to those provided to the Australian Securities and Investment Commission (ASIC) to initiate investigations and complaints. The Ministry considers that the provision of such powers to HREOC is not currently consistent with the legislation as ratified and that HREOC does not appear to be sufficiently resourced to undertake such action.

## **2.0 CURRENT COMPLIANCE**

### *2.1 Reporting progress*

NSW provides six-monthly updates on progress with compliance with the Transport Standards in the transport portfolio's disability action plan which is published on the Ministry of Transport website. This reporting has been consistently undertaken since May 2003 and the Ministry is therefore able to provide comparisons over a four year period up to June 2007.

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. NSW is currently exploring effective and more detailed options for reporting on service compliance in addition to vehicle accessibility. This is anticipated to be facilitated by requirements in new Sydney Metropolitan and Outer Metropolitan bus contracts to utilise a revised timetable format currently being developed by the Ministry.

At the Ministry's stakeholder forum and at hearings held in Sydney by the consultants to the Five Year Review, participants representing disability groups generally acknowledged that transport accessibility has improved as a result of the introduction of the Transport Standards but that problem areas remain.

The following sections provide a mode-specific assessment of current compliance with the Transport Standards, detailing both improvements in the provision of accessible public transport in NSW and also areas where the provision of accessibility has been problematic.

### *2.2 Rail Services*

NSW has Australia's largest rail network with over 1600 carriages providing services to 304 CityRail stations in the Greater Sydney Metropolitan Area and nearly one hundred Countrylink stations in rural and regional areas. This network is one of the oldest in Australia with much of the infrastructure built more than eighty years ago. Some CityRail infrastructure was first built more than a century ago.

Since the mid 1990s, the NSW Government has spent \$1.12 billion in improving the accessibility of rail services and this includes \$420 million on rail infrastructure and \$700 million on accessible rail rolling stock (including \$466 million on 141 'Millennium' carriages). In addition, the NSW Government has entered into a \$3.6 billion contract for the supply of 626 new accessible suburban rail carriages and \$43 million has been allocated in 2007/08 for further accessible rail infrastructure.

In the four year period since May 2003, the wheelchair accessibility of CityRail stations has improved by 12% from 60 stations (20%) in May 2003 to 96

stations (32%) in June 2007. As complete accessibility cannot be provided immediately, NSW has been co-ordinating its efforts to upgrade facilities where they will have the most impact.

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. Countrylink rail stations have maintained levels of accessibility with 93% being wheelchair accessible in both May 2003 and June 2007.

CityRail carriages are accessible for persons using mobility devices with 'direct assistance' utilised to deploy a boarding ramp. This provides 100% accessibility for Sydney Metropolitan carriages but some intercity carriages have not yet been converted to provide wider doors and allocated spaces for wheelchairs. This results in a level of access for carriages outside the Sydney Suburban area of 48% (223 carriages). However, this represents a 9% improvement over the May 2003 figure of 39% (141 carriages). All Countrylink trains provide accessible seating, wheelchair spaces and toilet with direct assistance provided to board the train. Countrylink requires its contracted coach service operators to provide accessible services.

Although some people with disabilities have indicated that the use of 'direct assistance' does not provide sufficiently independent access for people with mobility devices, the age of CityRail's infrastructure and its configuration means that there will be continued reliance on 'direct assistance'. For example, independent access will not be possible while many CityRail platforms are curved.

Given the location of many CityRail stations in existing urban infrastructure, straightening curved track alignments is problematic. For example, Parramatta Station has four platforms on a generously curved alignment and at this and other such locations, there will always be a gap between the platform and carriage that will require the deployment of a ramp. As the distance between the platform and carriage may vary depending upon the platform curve, it is not considered feasible to retrofit automatic ramps to carriages and CityRail will continue to rely on manually deployed ramps.

Some stakeholders commented that this reliance on the human element provides too many opportunities for failure in the system. Although there have been failures to provide a ramp, particularly for disembarkation, incidents have decreased since the Standards were introduced. Stakeholders commented that improved staff training is required if direct assistance is to be relied on and this is discussed at 2.10. The use of direct assistance is also discussed at 4.1.

Some stakeholders have commented that although a large number of stations are physically accessible, they may not be completely accessible in regard to information provision. Improving system-wide information is discussed at 2.8.

Stakeholders also indicated that not all buses replacing rail services during periods of trackwork are accessible. CityRail is constrained in this regard by the availability of accessible vehicles from its contractors who are, in turn, attempting to maximise the utilisation of their available accessible vehicles. However, trials have been successfully undertaken by CityRail to maximise the number of accessible rail replacement services available during trackwork.

In addition, the NSW Government's bus reform program (see 2.2) is increasing the number of accessible buses through new contracting and funding arrangements for operators in the CityRail area and it is anticipated that this will better enable RailCorp to charter sufficient accessible vehicles to further improve the accessibility of its rail replacement services in the future.

Stakeholders with mobility disabilities raised the issue of emergency egress from CityRail services. CityRail is currently developing procedures in response to the issues raised, and is undertaking consultation with disability peak groups.

## *2.2 Bus Services*

NSW maintains the largest metropolitan bus fleet in Australia with more than 3000 buses operating in the Sydney Metropolitan Area. Since the mid-1990s, the NSW Government has provided approximately \$300 million for the purchase of accessible buses.

Under new Sydney Metropolitan and Outer Metropolitan Bus System Contracts, the NSW Government is providing funding for the purchase of accessible vehicles to all operators. In 2007/08 this funding will purchase 126 new buses for private operators and 121 for State Transit. Since October 2005, when all new Sydney Metropolitan bus contracts were in place, the NSW Government has funded the purchase of 320 new buses for both private operators and State Transit. All new buses are low floor and accessible.

The new contracting arrangements require compliance with the Transport Standards and the preparation of a disability action plan for improving access to services. The contracts also require the provision of information on services (including accessibility) to the 131 500 Infoline and website and the introduction of a new standard bus timetable (including standard notation for accessible services) currently being developed by the Ministry.

From May 2003 to June 2007, the number of low floor accessible State Transit buses increased by more than 20% from 439 (23%) to 776 (43.4%). Stakeholders have commented that, despite having such a significant number of accessible vehicles, some of State Transit's routes do not feature accessible services. State Transit has had difficulties with road topography and infrastructure in allocating low floor vehicles and is currently working to

overcome these problems with infrastructure providers as well as developing a wider spread of timetabled accessible services.

For private operators, no count of accessible vehicles was possible in 2003 but information now being provided under new bus contracts indicates that in June 2006, nearly 25% of all private buses in the Sydney Metropolitan area were accessible (320). It is anticipated that by December 2007 30% of private buses will be accessible.

Disability stakeholders have commented that, because of the lack of availability of accessible replacement vehicles, changes to timetabled accessible services because of breakdowns and unexpected maintenance are causing frustration. This should improve as new buses increase the capacity of operators to provide substitute accessible services and to improve reliability.

The bus reform process is only in its initial stages in the Outer Metropolitan areas with all contracts being signed from December 2006. Approximately 17% (148) of Outer Metropolitan buses were accessible in June 2007 and it is anticipated that this will rise to approximately 22% (198) by the end of the year. Bus industry stakeholders have indicated that the utilisation of available accessible vehicles will need to be maximised in order achieve the necessary levels of compliance for bus services.

No figures are currently available for bus operators in rural and regional areas. The Ministry is currently developing options for new funding, planning, contracting and reporting arrangements for bus services in Country NSW in consultation with industry for consideration by Government. The reform framework is to be completed by the end of 2007, ready for progressive rollout across NSW from early 2008.

All stakeholders have indicated that the provision of accessible bus services in rural and regional areas has been more problematic than in metropolitan areas. Bus industry stakeholders have attributed this to a limited ability to fund compliance and difficulties with infrastructure. In regard to financial capabilities, not all rural operators have the same capacity to manage their costs and cost structures and rural & regional public transport services are significantly different from services provided in metropolitan areas. Operators are not often able to apply economies of scale as 55% of rural and regional bus companies with commercial (regular route service) contracts operate fewer than 10 vehicles and 31% fewer than 5.

Problems with the provision of infrastructure in rural and regional areas are discussed at 2.9.

Disability stakeholders have indicated that the accessibility of bus services is not only a matter of boarding a vehicle. Concerns have been expressed regarding drivers who do not take sufficient care with the needs of their passengers, through poor driving or by omitting to provide information to vision impaired persons. Vision-impaired persons in particular have difficulty

in knowing which bus to hail on busy routes and with selecting the appropriate service from a queue of buses. Suggestions have been made that buses should be fitted with audio/visual information provision to provide accessible 'on board' information and that 'real time' information would facilitate the choice of appropriate service. These issues are discussed at 2.8 (Information) and 2.10 (Staff Training).

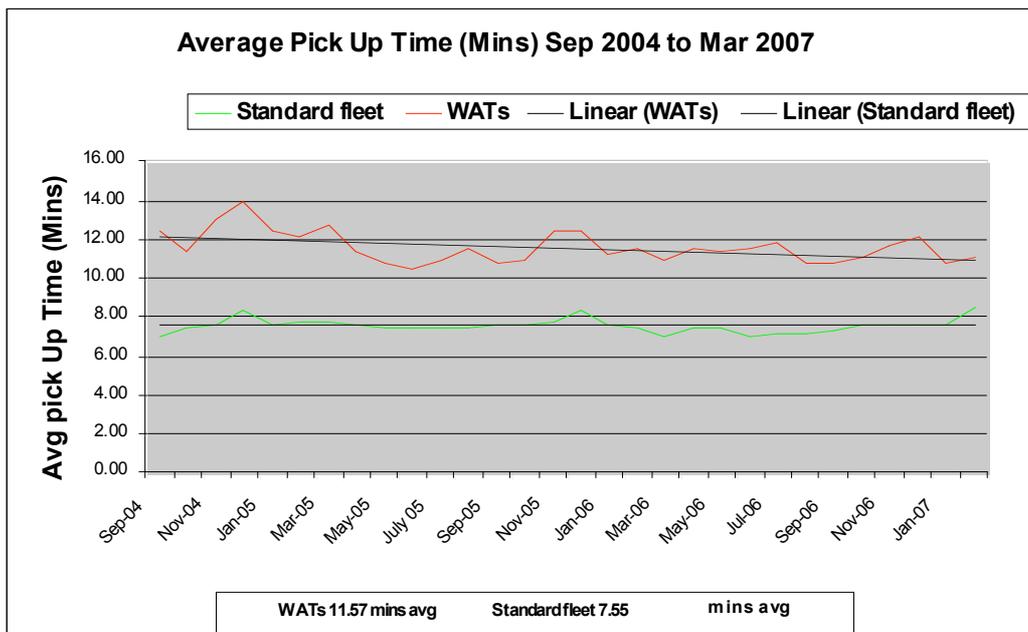
### 2.3 *Taxi Services*

In the Sydney Metropolitan area, the number of Wheelchair Accessible Taxis (WATs) has increased from 6% of the fleet (271) in May 2003 to 8.1% (407) in June 2007. Outside the Sydney Metropolitan area, the number of WATs has increased more markedly from 11% (105) in May 2003 to 17.2% (215) in June 2006. However, in rural and regional areas, the 'spread' of WATs is not as uniform as it is in metropolitan areas. While some locations have no WATs at all, others like Port Macquarie feature a large WAT fleet in recognition of the ageing demographic in that town and in response to overall fleet growth.

While the number of WATs provides some indication of the levels of accessibility, the Transport Standards require that the compliance measure for taxi accessibility is equality of response times with standard taxis. In NSW, these are measured as 'average' response times for bookings made through a network and a number of factors may reduce their accuracy. For example, data currently used to measure average response times for WATs in Sydney relates to bookings through the Zero 200 booking service which provides services specifically to WAT vehicles. This does not reflect response times for all WAT journeys as many bookings are made directly with a driver where the time taken to answer a booking call or the response time of the vehicle is not recorded. These bookings are not subject to the Transport Standards.

In addition, response time figures represent averages only and do not reflect differences in response times for different parts of a licensed area. A discussion of the appropriateness of response times as a measure of compliance is at 3.3.

Average response times for WATs in Sydney are 53% slower than for standard taxi services. Specifically, the standard taxi average response time is 7.56 minutes while the WAT average response time is 11.58 minutes. Reliable average response time data for other areas of NSW is not yet available. The following chart demonstrates a gradual improvement in the response times for WATs between September 2004 and March 2007.



Stakeholders have commented on experiences which indicate that response times in more highly populated areas are shorter than those in less densely populated outer metropolitan areas. It may be that taxi networks need to cooperate more effectively to appropriately target WATs in areas where response times are recorded as problematic.

Projections based on current response times in Sydney indicate that it may be some years before parity is reached on this compliance target. This is despite the following policies being implemented by the Ministry since 2001 to improve the take-up of WAT licences and to increase the availability of WAT vehicles generally:

- a) In urban areas WAT licences are \$1000 per annum (compared to over \$27,000 to lease a general taxi licence in Sydney) and in the country they are issued for free.
- b) The need for WATs to be a new vehicle has been relaxed (but a ten year age limit retained);
- c) WAT drivers incur no training or assessment costs;
- d) Availability of interest free loans for the purchase of WATs by regional operators; and
- e) WAT licence conditions now require only a single wheelchair instead of two wheelchair capacity to encourage the conversion of more vehicles.

In order to ensure that WATs are giving preference to passengers with mobility aids, the Ministry is increasing its efforts to comprehensively cross reference Taxi Transport Subsidy Scheme trips with WAT registrations. Those operators who have not demonstrated that they are giving preference to hirings for people with mobility aids may risk losing their WAT licence.

Disability stakeholders have indicated that, in addition to problems with response times in some areas, the accessibility of WAT services may be

limited by additional factors. For example, stakeholders who use mobility devices have indicated that some vehicles converted as WATs may have the correct accessible 'footprint' but the shape of the vehicle results in mobility devices still not fitting. These stakeholders have indicated that the 'footprint' should be an 'envelope' and this is discussed further at 5.3 together with issues on the size of mobility devices generally.

## 2.4 Interchanges

53% of all interchanges are currently accessible and all new interchange facilities are built as accessible. Two accessible interchanges have been completed since May 2003.

## 2.5 Ferries

NSW has the most extensive public ferry service in Australia with fifty commuter wharves and more than thirty ferries in Sydney Harbour alone.

All Sydney Ferries' 31 vessels and both of State Transit's Newcastle ferries are accessible via direct assistance. Anecdotal evidence from peak disability group stakeholders indicates that passengers in mobility aids (and visitors to Sydney in particular) rate the accessibility provided by Sydney Ferries as very good. However, some stakeholders have indicated that while all ferries are accessible, only 46% of wharves are accessible (see 2.6) and others have advised that audio/visual information systems should be installed on ferries. The provision of audio/visual information on public transport generally is discussed at 2.8.

Private ferries and the wharves they utilise are generally inaccessible. Most private operators utilise older vessels and have smaller patronage bases. Also, the wharves they utilise are often owned by local government authorities who have found it difficult to fund accessible infrastructure upgrades. Both these factors have mitigated against private ferry accessibility.

## 2.6 Commuter Wharves

There has been no change to the accessibility of Sydney Harbour commuter wharves since May 2003, although \$65 million has been provided for their construction and upgrading since the mid-1990s. 46% of these commuter wharves are accessible via direct assistance. The use of direct assistance, which is also discussed at 4.0, is vital to the access of maritime public transport services. The marine environment is particularly harsh on wharf facilities and experience in other jurisdictions (including overseas) has indicated that the maintenance of effective technological solutions to enable access at wharves is extremely problematic.

The ownership of all NSW Government commuter wharves is to be in one agency – NSW Maritime – and transfers are now underway from the previous owners (Ministry of Transport, Sydney Harbour Foreshore Authority and Sydney Ferries). There are distinct advantages in having one authority

responsible for maintaining and improving wharf infrastructure and in facilitating the co-ordination of upgrade and maintenance programs and in obtaining economies of scale. NSW Maritime is currently reviewing access requirements at commuter wharves.

Local government authorities have found it difficult to provide access improvements at their commuter wharves on Sydney Harbour (22 of 50) and have requested that the NSW Government take them over. They are being progressively transferred to NSW Maritime. The ability of local government to fund transport infrastructure is further discussed at 2.9.

## *2.7 Community Transport*

Although the Ministry assists in the distribution of funding to community transport organisations (with in excess of \$33 million budgeted for 2007/08), the organisations themselves are responsible for the purchase of accessible vehicles. 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.

Until recently there was no requirement for community transport operators to make their services accessible. However, 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".

## *2.8 Information*

The provision of accessible information is a vital link in the provision of accessible public transport because people with disabilities can't use accessible services unless they know when they are operating. Information provision is not limited to pre-trip planning but is also required to enable passengers to negotiate infrastructure to reach accessible services and to advise passengers of their location and interchange options during their journey.

Co-ordinating the provision of information for multiple modes across an extensive public transport system is a considerable challenge. In addition, the technologies used to deliver transport information are becoming increasingly more complex and costly.

To ensure that the NSW Government gets the best possible results from the implementation of information systems across a range of modes and transport tasks, including the provision of accessible information for people with disabilities, the Ministry of Transport has established a Passenger Information Review Group (PIRG) with representatives from all NSW transport agencies. The role of this group is to report to the Minister for Transport on cost effective

strategies for improving passenger information provision across transport modes to ensure:

- A more consistent, co-ordinated approach including opportunities for economy of scale;
- Commonwealth Disability Discrimination Act (DDA) compliance targets will be met; and
- The appropriate exploitation of opportunities provided by initiatives such as Global Positioning System (GPS) technology on buses, the implementation of integrated ticketing and emerging technologies such as real-time information.

Disability stakeholders have commented that the provision of 'real time' transport information would greatly improve access. While the installation of GPS tracking as part of the introduction of Tcard will provide a useful platform for real time information on buses and ferries, the provision of consistent real time information on rail services is more problematic due to the varying train control systems currently in use.

Stakeholders have also indicated that audio/visual information systems on all modes would improve access for vision and hearing impaired persons. All new rail carriages, including 141 Millennium cars now in service, will feature audio/visual information systems.

As indicated at 2.2, the Ministry is currently developing a standard timetable format for bus services and this will be progressively implemented from the end of 2007. The Ministry has been encouraging operators to include more timetabled accessible services when new timetables are released.

The NSW Government considers the 131 500 Infoline and website the basis of public transport information provision. All operators in the CityRail area are required to provide information to 131 500. The Infoline is currently accessible to the hearing impaired through a TTY telephone service and the website is being upgraded to provide key stroke navigation for the vision impaired.

Due to the differing methods utilised by operators to supply timetable data to 131 500 and the consequent delays in processing, some information may not reflect real time changes in service provision. Methods to improve timetable provision will be considered by the PIRG.

Suggestions raised by stakeholders to improve public transport information for people with disabilities will be provided to the PIRG for its consideration and include:

- Information for people with disabilities on how to use public transport, not just on the availability of services;
- Improved wayfinding measures for people with disabilities in transport infrastructure; and
- Methods to provide advice to vision impaired users on the quantum of taxi fare paid.

Information on the level of public transport usage by people with disabilities is not currently available. Although the improved accessibility of public transport infrastructure and conveyances has led to anecdotal increases in patronage by people with disabilities, it is not currently possible to identify the proportion of travel by passengers with disabilities from the travel statistics for all passengers.

## *2.9 Local Government Infrastructure*

In NSW, local roads, roadside infrastructure and their maintenance and upgrade are principally the responsibility of local government. Both are vital to the provision of accessible bus services with suitable roads required for low floor vehicles and accessible bus stops and access paths for the successful embarkation and disembarkation of passengers.

In urban areas, low floor buses are prevented from operating on some routes because of traffic calming devices which cause damage to the bus chassis. In rural and regional areas, traffic calming is less of a problem, but many routes feature humps and dips which cannot be negotiated by a low floor bus.

For bus stops, problems have been experienced with housing developments approved with 'dish' gutters which are unsuitable for the deployment of a ramp from an accessible bus. In some urban and many rural and regional areas the lack of pedestrian infrastructure generally means that there are few hard and level surfaces of sufficient height to deploy a boarding ramp successfully. Even if local government authorities were to create accessible bus stops, the supporting pedestrian infrastructure may still prevent full and seamless independent accessibility for persons in mobility aids.

At the stakeholder forum convened by the Ministry, some participants commented that problems with new and existing infrastructure might be addressed by access requirements in Local Environmental Plans. However, while this and other avenues may be explored to ensure that future developments are accessible, many local authorities, particularly in rural and regional areas, are either unaware of the compliance requirements of the Transport Standards or are unable to fully fund the task of rendering existing infrastructure accessible. This in turn affects the ability of bus operators to fully comply with the Transport Standards.

## *2.10 Training*

Stakeholders have commented that, where there is a reliance on direct assistance when independent access is not possible, the training of public transport staff in 'disability awareness' is crucial. While NSW Transport agencies provide disability awareness training, there is currently no consistent program and the level and frequency of training varies.

The PIRG (see 2.8) will be examining the role of staff training in the provision of information and this will be also addressed in the Transport Portfolio's action planning process (see 3.1).

## **3.0 CLARIFICATION OF OBLIGATIONS**

### *3.1 Action Planning*

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.

The first plan was completed in December 2002 and an updated version was completed in June 2005. In 2007, the Ministry for Transport commenced another update of the disability action plan with its completion anticipated by the end of the year.

Accessible transport statistics are updated six monthly in the transport portfolio's disability action plan. To assist in the development of the transport portfolio disability action plan currently being updated, the Ministry will be convening an Accessible Transport Consultative Group comprising government, industry and peak disability stakeholders. The Group is intended to provide a forum where NSW transport agencies/organisations, industry representatives and the disability community can offer advice on action planning processes including:

- Identification of barriers to access across transport modes;
- Access strategies to best meet the access needs of the disability community; and
- The periodic review of action planning strategies.

The Ministry has also been active in providing disability action planning information to transport operators and infrastructure providers throughout NSW. For example, the Ministry assisted the peak NSW bus industry body, the Bus and Coach Association, to prepare and distribute a guide to the Transport Standards which included advice and guidance on the disability action planning process.

The Ministry has also provided advice on action planning to both the NSW Local Government and Shires Association and the NSW Taxi Council. In addition, the Ministry has provided presentations on disability action planning and Transport Standards' compliance to bus operators, local government, community transport providers and the taxi industry at the Transport Working Group meetings convened by the Ministry's Regional Transport Co-ordinators.

### 3.2 *Unjustifiable Hardship*

The Transport Standards have identified timeframes for the introduction of accessible services and this has provided a measure of fiscal certainty for Government and operators regarding the future cost of implementation. However, the cost of accessibility cannot accurately be measured until public and private operators have further certainty about what constitutes 'unjustifiable hardship'.

'Unjustifiable hardship' may only be used as a defence against a complaint and not as a means of obtaining prior exemption. NSW acknowledges the need to apply the concept in particular and exceptional circumstances only. As indicated in the Transport Standards, compliance should be achieved to the maximum extent not incurring unjustifiable hardship.

However, in the absence of relevant legal precedents, public and private transport operators feel that increased certainty is required in order to make longer term, high cost capital commitments to accessibility. For example, the lack of local government infrastructure is a threat to compliance by bus operators, particularly in rural and regional areas. This relates both to the suitability of roads for accessible vehicles and the provision of accessible pedestrian infrastructure to enable boarding and disembarkation.

Some of the exemptions recently granted to the Australasian Railway Association (ARA) by the Human Rights and Equal Opportunities Commission (HREOC) were matters upon which it might have been possible for rail operators to claim 'unjustifiable hardship'. However, as no mechanism exists to define unjustifiable hardship and, as there is still little relevant legal precedent for matters concerning accessible transport, the ARA felt compelled to seek clarity on its members' compliance obligations through the exemption application process.

The Ministry considers that it should not be necessary for operators to either be involved in a complaint of discrimination or use the exemption process to get the certainty they need on what constitutes unjustifiable hardship.

### 3.3 *Response times for Wheelchair Accessible Taxis*

At public hearings held for the Five Year Review, the Australian Taxi Industry Association (ATIA) put forward an argument that drivers, operators and Government should be responsible for response times, not networks and co-operatives as is currently required under the Transport Standards. The ATIA characterises drivers and operators as 'self employed' businesses whose decisions may override the capabilities of a network booking service and has further indicated that Government should also be responsible as it regulates the number of accessible vehicles.

However, the ATIA noted that the number of WATs did not appear to be the principal determinant of response times and this mitigates against its argument that Governments should take responsibility because they regulate

WAT numbers. Also, it should be noted that networks derive significant revenue from fees imposed for connection to booking networks (including a separate fee in NSW for attachment to the Zero 200 WAT booking network).

While it is acknowledged that the measurement of response times may be compromised by the number of bookings not made through networks and by variations in local response times (see 2.3), the Ministry maintains that this remains the best and most appropriate measure of taxi service compliance and that networks should retain responsibility for it. This is particularly so given the revenue networks derive from providing booking services to drivers and operators.

### *3.4 Referencing of Australian Standards*

Industry stakeholders have commented to the Ministry that the referencing of Australian Standards in the Transport Standards currently provides insufficient guidance to transport operators because it is necessary to seek guidance from numerous documents additional to the Transport Standards. Operators have indicated that the requirements of the Australian Standards should be made explicit in the Transport Standards to provide increased clarity on access obligations for both public transport operators and passengers.

Disability stakeholders have provided some support for this approach, but it would be also true to say that people with disabilities would prefer that the Australian Standards currently referenced be continually replaced with more recent versions of the Standards as the requirements for access have been enhanced in the intervening period. The Ministry has reservations about this, because operators have made considerable investments in the provision of allocated spaces consistent with the Australian Standard currently referenced in the Transport Standards. Any change to continuous replacement with current Australian Standards would also be inconsistent with the retrofit requirements in the Standards. The topic of mobility device size and compatibility for public transport use is further discussed at 5.3.

Vision impaired stakeholders have indicated that, should Australian Standards' requirements be imported into the Transport Standards, those for Tactile Ground Surface Indicators (TGSIs) should be referenced in full. The rationale for this is that vision impaired stakeholders have indicated that infrastructure providers do not always fully implement the requirements of the Australian Standards and that full importation would provide further clarity on TGSIs compliance requirements. However, the issue of TGSIs placement is still a matter of discussion between vision-impaired disability representatives who favour maximisation of TGSIs placement and mobility impaired representatives who have concerns over too many TGSIs becoming mobility impediments.

The Ministry considers that any change to the Transport Standards in regard to the referencing of the Australian Standards should be accompanied by a Commonwealth review process to ensure that the needs of all types of disabilities are considered and that optimum outcomes are achieved for all stakeholders.

## **4.0 FLEXIBILITY OF APPROACH**

### *4.1 Direct Assistance or 'Equivalent Access'*

The utilisation of 'direct assistance' or 'equivalent access' is vital to improving accessibility in NSW given current infrastructure configuration constraints for rail infrastructure and tidal variation at commuter ferry wharves.

Although people with disabilities have criticised NSW' reliance on 'direct assistance' (or 'equivalent access') to enable passengers in wheelchairs to board trains and ferries as not providing sufficient 'independent access', this method of compliance is vital to improving accessibility for NSW. As indicated earlier, NSW rail station and wharf infrastructure is incompatible with completely independent access.

Also, although NSW is moving to improve information provision for people with disabilities, the provision of information by staff using 'direct assistance' will be necessary for some time, particularly when normal service provision is disrupted and information is required to be changed continuously and within short timeframes.

### *4.2 Use of premises based requirements*

Transport operators have indicated that some Transport Standards' requirements based on premises-related Australian Standards are incompatible with a public transport environment. For example, the Transport Standards reference Australian Standards' requirements for accessible toilets which are not compatible with actual operating constraints such as the internal width of railway carriages (which is dependent in turn on the track gauge).

This is principally because an accessible path is required to the toilet from both directions and hence the toilet and accessible path must share the width of the carriage. In carriages using standard gauge track in NSW this is not possible without reducing the dimensions of the accessible toilet. In jurisdictions which operate on a narrow gauge such as Queensland, compliance is even more problematic.

The Ministry would support any action by the Commonwealth to provide a more performance-based standard for toilets and stairs on public transport which was consistent with the constraints applied by public transport conveyance widths.

## **5.0 CONSISTENCY AND COMPATIBILITY OF COMPLIANCE**

### *5.1 Commonwealth Government*

Responsibility for the DDA and Transport Standards lies with the Commonwealth and, although the principal responsibility for management of

compliance lies with public transport operators (which, except for aviation, are most often regulated by the States and Territories), there has been little co-ordination of the compliance task by the Commonwealth.

The major example of the Commonwealth introducing the requirements of the Transport Standards without a detailed assessment of their overall impact on the public transport task is the apparent lack of consideration given to the provision of sufficient accessible infrastructure by local government (see 2.9). While transport operators are making their best efforts to comply with the Transport Standards' requirements, the inability of local government to supply accessible infrastructure compromises these efforts and undermines the benefit accruing from significant investment in the provision of new and upgraded accessible transport infrastructure.

In addition, disability stakeholders have indicated that, although the States and Territories report on transport accessibility through HREOC, there is no requirement for local government to report on accessible infrastructure provision. Stakeholders have indicated that the introduction of such reporting would provide a useful impetus to the provision of accessible infrastructure by local government.

Also, several disability groups have raised the issue of the Commonwealth introducing its 'Welfare to Work' initiative without consideration of the impact it would have on public transport accessibility requirements. In particular, the transfer of people with disabilities from welfare to the workforce will require increased public transport access but the Commonwealth made no attempt to consult with jurisdictions or transport operators prior to the initiative being announced.

At a meeting of the Australian Transport Council in 1999, NSW endorsed the Transport Standards on the basis that the Commonwealth should provide sufficient funding for their full implementation and NSW continues to support the provision of Commonwealth funding where appropriate to enhance accessible transport provision.

## 5.2 NSW Government

As previously noted, *Better Together* was launched by the NSW Premier, Morris Iemma, in March 2007 and outlines a new direction for New South Wales' Government services to work better for people with a disability and their families. In recognition of the importance of transport access for supporting *Better Together* objectives - promoting participation of PWD in all aspects of community life - *Better Together* identifies improvements in co-ordinating the investment in accessible infrastructure as one of the NSW Government's priority areas.

Disability stakeholders have identified the need for improved co-ordination between state and local government. In this regard, it was suggested that there were 'lots of energies' relating to the provision of accessible transport but that planning is affected by a lack of co-ordination. However, an instance

where state government has provided leadership and worked co-operatively with local government is in the Action Planning Process.

As indicated at 3.1, the Ministry is providing advice to both the NSW Local Government and Shires Association and to individual local government organisations regarding the action planning process. In addition, the establishment of the Accessible Transport Consultation Group to inform the NSW Transport Portfolio disability action planning process will include representatives from local government.

### *5.3 Compatibility of Mobility Devices with public transport use*

Despite the Transport Standards being in the public domain since 1996 (which includes the dimensions for an allocated space on a public transport conveyance) mobility devices have been getting larger, do not often indicate whether they are suitable for public transport use and do not feature anchorage points which would enable them to be properly secured in the allocated space of a taxi, bus or coach.

Transport operators are concerned that the lack of suitability of some mobility devices for public transport use will result in injuries or death for both the mobility device occupant and other passengers in the event of a serious incident. In regard to long distance coach services, there is a clear disconnection between the access requirements of the Transport Standards and the requirements of the Australian Design Rule (ADR) for coach seats. Wheelchairs cannot, for example, ever meet the requirements of this ADR for strength of anchorage to the coach floor (as they cannot be secured in the same way) and therefore pose a hazard for both occupant and other passengers on high speed services. The ADR was introduced after a high speed head on crash near Kempsey in NSW.

As responsibility for the Transport Standards lies with the Commonwealth, the Ministry considers that the principal responsibility for resolving issues concerning mobility device size and suitability for public transport use should lie with the Commonwealth. In this regard, the Commonwealth should be making efforts to ensure that mobility device manufacturers consider these issues at the design stage and that suitable devices should be certified and clearly marked as 'suitable for public transport use'.

### *5.4 Public transport modes not covered by the Transport Standards*

Currently, hire cars, tourist services and charter services generally are exempt from the requirements of the Transport Standards. The majority of disability stakeholders who have provided advice to the Ministry in regard to the Five Year Review have indicated that continued exemptions for hire cars, tourist services and charter services are incompatible with the intent of the DDA and Transport Standards.

The Ministry considers that opportunities exist for innovative hire car, tourist and charter operators to access the disability market, but that if such

opportunities are not embraced and people with disabilities are still denied access to these services, then the Commonwealth Government should consider action to encourage accessibility for these modes as part of the Transport Standards.

## **6.0 CERTAINTY OF PROCESS**

Disability stakeholders have indicated their dissatisfaction with the complaints-based nature of the Transport Standards. Participants indicated that the cost of a Federal Court action is beyond the financial capabilities of many people with disabilities and the Disability Council of NSW (DCNSW) indicated that the cost advantage of such actions is usually 'with the Respondent'. DCNSW suggested the Human Rights and Equal Opportunities Commission (HREOC) should be given similar powers to those provided to the Australian Securities and Investment Commission (ASIC) to initiate investigations into matters relating to complaints.

The Ministry considers that the provision of such powers to HREOC is not currently consistent with the legislation as ratified and that HREOC does not appear to be sufficiently resourced to undertake such action.

## APPENDIX A

### LIST OF STAKEHOLDER ORGANISATIONS ATTENDING MINISTRY OF TRANSPORT'S FIVE YEAR REVIEW FORUM 2 AUGUST 2007

Accessibility Solutions  
Blind Citizens Australia  
Bus Industry Confederation  
Combined Pensioners and Superannuants  
Disability Council of NSW  
Ethnic Child Care Family and Community Services  
Guide Dogs NSW/ACT  
Local Government and Shires Association  
Marrickville Council  
National Disability Services NSW  
NSW Bus and Coach Association  
NSW Maritime  
NSW Ministerial Advisory Committee on Ageing  
NSW Taxi Council  
Paraquad  
People with Disabilities  
Physical Disability Council of NSW  
RailCorp  
Roads and Traffic Authority  
Spinal Cord Injuries Australia  
State Transit  
Sydney City Council  
Sydney Ferries