**Richard Witbreuk**

12 Loftus St

Glenorchy

Tasmania 7010

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Legal Section

Australian Human Rights Commission

GPO Box 5218

Sydney NSW 2001.

**Re : Australian Railways Association exemption application (2020)**

I wish to make a few points in regards to the application of ARA seeking a temporary exemption to four standards in the Disability Standards for Accessible Public Transport 2002 (Cth) (Transport Standards) and one standard in the Disability (Access to Premises-Buildings) Standards 2010 (Cth) (Premises Standards).

I make this submission based on being a user of public transport, being mobility impaired an belief that this application has a flawed argument.

I will address the four exemptions sought :

**1. DSAPT Clause 2.1 ‘Access paths – Unhindered passage’ and Premises Standards Clause H2.2(1) ‘Accessways’**: *For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on rail premises or rail infrastructure.*

**2. DSAPT Clause 2.6 ‘Access paths — conveyances’**: *For a period of five years, an access path is only required at a single door of existing rail conveyances.*

**3. DSAPT Clause 6.4 ‘Slope of external boarding ramps’:** *For a period of five years, where the relationship between the platform and rail carriage means that an external board ramp can only be provided at a gradient greater than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance to customers to ascend or descend the ramp.*

**4.** **DSAPT Clause 8.2 ‘Boarding – When boarding devices must be provided’**: *For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance.*

It is my experience with every development/project, a timeline is established an a completion date set. Generally, organisations/individuals are penalised if timelines are not satisfied.

The argument put forward appears to be one where the proponent seeks to go at their own pace to implement the upgrades. If I were to construct a dwelling I would sign a contract that would have a completion an handover date. If these timelines were not satisfied penalties would be imposed. I see no reason as to having the same principles applied in this circumstance. If the proponent is unable to satisfy the legislative requirements then a penalty should be instigated not an exemption.

Given the current circumstances we face due to the Covid 19 pandemic, a holistic approach should be undertaken.

All levels of government an business should be looking at ways to be ‘shovel ready’. As I understand, governments across the country are looking for infrastructure projects that will assist in employment and be beneficial to the community. It is my view that these type of infrastructure projects including rolling stock is a key project that would benefit from being prioritised not delayed.

In my opinion, the application for an exemption is not only short sighted but lacks a vision. A vision where all people get to enjoy the benefits of access to public transport. A vision that would see compliance with the standards and legislative timeframes.

In seeking this exemption the people that will be most disadvantaged will be people with disabilities, their families an friends. They will not be able to enjoy the same access to public transport. People with disabilities are already disadvantaged enough when it comes to access to public transport. An exemption only furthers to entrench these disadvantages.

In my experience large projects do encounter issues during implementation. It is my view however that the exemptions sought here should not be permissible as many of the issues raised should have been considered in the design process. If the initial process was flawed in design, it is not up to people with disabilities to bear the brunt of a lack of vision an forethought.

In summary, I believe that the exemptions sought do not satisfy the objects as stated in Section 3 of the DDA 1992. The application demonstrates that people with disabilities do not have the same fundamental rights as the rest of the community.

Sincerely yours,

Richard Witbreuk