



24 July 2021

To
Australian Human Rights Commission

Submission on the report by Equal Access on the application by the Australasian Railway Association for temporary exemptions from the Disability Standards for Accessible Public Transport (DSAPT)

The All Aboard network is a forum of individuals and representatives of community and local government organisations who have an interest in the accessibility of public transport in Victoria. It was first established in 2011.

The All Aboard network advocates for non-discriminatory independent access to all forms of public transport for all people.

Acronyms used in this submission:

AHRC – Australian Human Rights Commission

ARA – Australasian Railway Association

AS – Australian Standard

DSAPT – Disability Standards for Accessible Public Transport (also known as the Transport Standards)

The All Aboard network has considered the report by Equal Access and has the following comments:

Exemption sought:

Part 2.1 – ‘Access Paths – Unhindered Passage’ and clause H2.2 of the Access Standards ‘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.

Comments:

The All Aboard network appreciates the excellent detailed analysis by Equal Access of the subject of access paths and flange gaps.

It is well noted that the Equal Access report has addressed access paths covered by the DSAPT and Premises Standards (those within the precinct of a railway station) and those that are not (pedestrian crossings outside of railway stations). The latter type is reported to be covered by Australian Standard 1742.7.

The All Aboard network agrees with and supports the Recommended Conditions put forward by Equal Access, but with the following suggested changes:

1. The exemption period should expire on 31 December 2022 as per Part 4 of the DSAPT. This would be recognition that 20 years should have been sufficient for the ARA or its members to rectify breaches of the DSAPT.
2. The audits of all access paths that intersect with railway tracks, whether or not within the precinct of a railway station, should be completed by 31 December 2021.
3. The audit reports and progress reports should be published, in a timely manner, on the AHRC website.

Exemption sought:

Part 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.

Comments:

The All Aboard network notes that the Recommended Conditions put forward by Equal Access are essentially the same as the conditions applied by the AHRC in relation to the temporary exemptions granted for the previous exemption period.

It has been noted in the Equal Access report that the DSAPT is silent on the number of doors of a train that should be accessible. Some ARA members have assumed that number to be one. Many disability advocates would say that all-door access is the only real non-discriminatory outcome. Other advocates may say that a number in between would provide acceptable non-discriminatory access.

The Transperth commuter railway is a good example of all-door, non-discriminatory accessibility. Metro Trains in Melbourne is an example of single door discriminatory access. A Transperth passenger who requires an accessible entry point and arriving “just in time” will be able to enter the train by the closest door because all are accessible. A passenger who requires an accessible entry point and arriving “just in time” for a Melbourne train will very likely miss the train because they may be required to travel past several entry points that have not been made accessible.

It also should be noted that several doors on all Melbourne trains are signed as being accessible. These are the front doors of each motor carriage. Most Melbourne trains have four motor carriages. There are allocated spaces, manual boarding ramps in some train types and other accessible facilities located in the area inside these doors. But only the front-most of these signed accessible doors is actually made available for passengers requiring an accessible boarding point.

With the preceding paragraph in mind, the All Aboard network is concerned that the Recommended Conditions put forward by Equal Access are inadequate and do not reflect the seriousness of the discriminatory behaviour and breaches of the DSAPT perpetrated by some ARA members for the twenty years since the DSAPT was first implemented.

Some ARA members have introduced new rolling stock since the implementation of the DSAPT. According to DSAPT Clause 33.1, new conveyances are required to be fully compliant. And yet, they do not comply with many Parts of the DSAPT.

The All Aboard network does not agree with the Recommended Conditions put forward by Equal Access. If the AHRC grants this Temporary Exemption with the Equal Access Recommended Conditions, it is likely that yet another 5 years will go by with no action by some ARA members to remove discrimination.

The Recommended Conditions put forward by Equal Access only includes the provision of equivalent access and some signs. The Recommended Conditions do not include any requirement to take steps to make more than one door available as the primary entrance. The path to actually remove or reduce discrimination has not been taken.

Exemption sought:

Part 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 boarding 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.

Comments:

ARA members have had 20 years to rectify all the situations that result in a boarding ramp exceeding a gradient of 1:8. The Equal Access report states that 155 stations in the state of Victoria alone do not provide for boarding ramps of a gradient of less than 1:8.

The All Aboard network does not agree with the Recommended Conditions put forward by Equal Access.

It is true that the DSAPT is silent on who should provide assisted access. But a logical interpretation would be that a passenger with disability should not be responsible for providing their own assistance, in particular a personal assistant, where a breach of the DSAPT exists.

If a railway staff member is trained to deploy a portable ramp, it should not be much of a stretch for them to also be trained to provide direct assistance. The same occupational health and safety issues confront a railway staff member as they do an assistant employed by a passenger with disability.

It is the opinion of the All Aboard network that the ARA wants to rely on an exemption to make the ramp gradient liability someone else’s problem for yet another five years.

If a ramp gradient is greater than 1:8, it is because the railway conveyance and infrastructure are not matched to each other. The ARA member has had 20 years to solve the problem. The responsibility for dealing with it should not be shoved onto people with disability.

The Recommended Conditions put forward by Equal Access includes “For a period of five years, for existing rail stock, where the relationship...” does not recognise that all rail stock brought into service after the implementation of the DSAPT is required to be 100% compliant. Any exemption and related conditions therefore, if granted, should apply only to conveyances brought into service before October 2002.

It appears to be the intent of DSAPT Part 33.1 that any conveyance brought into service after the implementation of the DSAPT should be fit for purpose to serve within the existing rail environment.

The Recommended Conditions put forward by Equal Access includes “platforms can be improved at nominated boarding points on a case-by-case basis”. Improving platforms at nominated boarding points does nothing toward achieving access at more than one boarding point, as discussed in the preceding section.

The Recommended Conditions put forward by Equal Access includes “any ARA member utilising this exemption provides free travel for any assistant accompanying a person with disability who requires assistance to use the ramps between 1 in 8 and 1 in 4”. The All Aboard network believes that the ARA member should reimburse all reasonable expenses incurred by a person with disability in the event that they should require their own personal assistant to push them up or guide them down a boarding ramp with a gradient in excess of 1:8 where the railway staff member does not provide that assistance.

Exemption sought – **‘DSAPT Part 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.

Comments:

Similar to our comments on 2.6 “Access paths – Conveyances”, the All Aboard network does not support the Recommended Conditions put forward by Equal Access for the following reasons:

- For the preceding five year exemption period, no progress has been made in some jurisdictions toward providing access to more than one door of a conveyance. For example, the Metro Trains Melbourne 2020 Exemptions Report (for Part 2.6) describes only the measures being taken to inform passengers and staff of the location of the single boarding point and under what circumstances a second boarding point may be provided.
- The Recommended Conditions do not include any requirement by ARA members to work toward reducing discrimination by increasing the number of accessible doors.
- The Recommended Conditions focus on reports and information. They do not address the fundamental cause of discrimination in many jurisdictions – the normal provision of only one single boarding point.

Without requiring rail operators and providers to work towards the provision of multiple accessible doors spread along the length of the conveyance, it is difficult to see that rail services in some jurisdictions will ever achieve a level of accessibility that could be described as non-discriminatory.

Let us pose this question: Is it reasonable that a person using a mobility device should be able to choose which of the vacant allocated spaces, pursuant to DSAPT Part 9.6, they would prefer to occupy? If the answer to this question is “yes”, then all allocated spaces on the conveyance should be made available. Single door access allows a passenger to choose an allocated space only from those that are accessible from the single entry door. In

the Metro Trains Melbourne example, this could be just one quarter of the number of spaces on the entire train.

Conclusion

The All Aboard network considers that the Recommended Conditions put forward by Equal Access if applied to the ARA exemption application (if granted) to DSAPT 2.1, on the particular subject of flange gaps, is not strong enough. The Recommended Conditions are essentially the same as for the preceding exemption period and we feel that ARA members have shown much less progress than should have been expected during that period.

The All Aboard network does not support the Recommended Conditions put forward by Equal Access in relation to the ARA exemption application (if granted) to DSAPT 2.6, 6.4 and 8.2 because those conditions would do little, if anything to provide a path to the reduction or removal of discrimination.

Thank you for your consideration.

Yours faithfully,

Ray Jordan
(Admin)
All Aboard Network