



**Australian Federation of
Disability Organisations**



A Line in the Sand: Institutional Neglect and the Disability Transport Standards

**Joint Submission to the Royal Commission into Violence,
Abuse, Neglect, and Exploitation of People with Disability**

January 2022

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About AFDO

Since 2003, the Australian Federation of Disability Organisations (AFDO), a Disabled People's Organisation (DPO) and Disability Representative Organisation (DRO), has been the recognised national peak organisation in the disability sector, along with its disability specific members, representing people with disability. AFDO's mission is to champion the rights of people with disability in Australia and support them to participate fully in Australian life.

Our member organisations represent disability specific communities with a total reach of over 3.8 million Australians.

AFDO continues to provide a strong, trusted, independent voice for the disability sector on national policy, inquiries, submissions, systemic advocacy and advisory on government initiatives with the Federal and State/Territory governments.

We work to develop a community where people with disability can participate in all aspects of social, economic, political and cultural life. This includes genuine participation in mainstream community life, the development of respectful and valued relationships, social and economic participation, and the opportunity to contribute as valued citizens.

Our vision

That all people with disabilities must be involved equally in all aspects of social, economic, political and cultural life.

Our mission

Using the strength of our membership-based organisations to harness the collective power of uniting people with disability to change society into a community where everyone is equal.

Our strategic objectives

To represent the united voice of our members and people with disability in national initiatives and policy debate.

To enhance the profile, respect and reputation for AFDO through our members.

To build the capacity and sustainability of AFDO and our members.

To foster strong collaboration and engagement between our members and stakeholders.

To enhance AFDO's connection and influence in international disability initiatives, particularly in the Asia Pacific region, through policy, advocacy and engagement.

Our members

Full members:

- Arts Access Australia
- Autism Aspergers Advocacy Australia
- Blind Citizens Australia
- Brain Injury Australia
- Deaf Australia
- Deafblind Australia
- Deafness Forum of Australia
- Down Syndrome Australia
- Disability Advocacy Network Australia
- Disability Justice Australia
- Disability Resources Centre
- Enhanced Lifestyles
- National Mental Health Consumer and Carer Forum (NMHCCF)
- People with Disability WA
- People with Disabilities ACT
- Polio Australia
- Physical Disability Australia
- Women with Disabilities Victoria
- Women with Disabilities ACT

Associate members:

- AED Legal Centre
- All Means All
- Amaze
- Aspergers Victoria
- Disability Advocacy and Complaints Service of South Australia (DACSSA)
- Disability Law Queensland
- Leadership Plus
- National Organisation for Fetal Alcohol Spectrum Disorder (NOFASD)
- Star Victoria
- TASC National Limited
- YDAS – Youth Disability Advocacy Service





About NITAN

The National Inclusive Transport Advocacy Network (NITAN) represents a national voice of people with disability advocating for accessible and inclusive public transport systems across Australia.

<http://www.nitan.org.au/>

Background

NITAN was established and is under the auspice of the Australian Federation of Disability Organisations (AFDO). However, NITAN operates independently; it is an unfunded group of people who share a specific interest in public transport matters.

Members

NITAN was established with a core working group of members from the following organisations:

- All Aboard Network
- Australian Federation of Disability Organisations
- Council for Intellectual Disability
- Disability Justice Australia
- Disability Resources Centre
- First Peoples Disability Network
- Inclusion Moves
- National Ethnic Disability Alliance
- People with Disability Australia
- Physical Disability Council of NSW
- Victorian Legal Aid

NITAN has since grown to also be supported by other state-based advocacy organisations and individuals with expertise in legal, transport, and disability rights. Our focus is unashamedly on disabled people having access to the same transport options as the wider community, spanning the full spectrum from active transport to public transport and the ability to self-drive.

Purpose

We aim to be a voice of people with disability on transport matters; however, we recognise the disability community is made up of a diverse range of people with differing needs and priorities. We understand that to be effective, we need to engage with experts in their field. We are open to ideas on how this can occur and look forward to shaping our voice with the disabled communities' assistance.

Our Objectives:

1. Community Inclusion

Promote the ethos that full, equal community integration of people with disability is not possible without a completely accessible 'whole of journey' public transport system Australia-wide, and advocate this position to all governments, industry, and community stakeholders.

2. Influence

Ensure that the voices of people with disability are heard in the design and shaping of public transport systems across Australia and in their day-to-day operations. Support others with requisite experience and qualifications as they advocate on public transport issues encompassing a "nothing about us without us" approach.

3. Alliances

Build a strong network of allies and rally the many voices of people with disability to speak as one national voice.

What does NITAN do?

NITAN aligns itself fully with the goals of Australia's Disability Strategy.

We provide a national voice and connection for people with disability and associated organisations that advocate for accessible and inclusive transport.

We work to educate people with disability on their transport rights. We also raise awareness of public transport issues facing people with disability.

We make sure that state and territory-based transport advocacy groups can feed into a national advocacy network that is independent and non-partisan.

Acknowledgements

AFDO acknowledges Aboriginal and Torres Strait Islander people as the traditional custodians of the land on which we stand, recognising their continuing connection to land, waters, and community. From our head office in Melbourne, we pay our respects to the Bunurong Boon Wurrung and Wurundjeri Woi Wurrung peoples of the Eastern Kulin Nation and to their Elders past, present, and emerging. We also pay our respects to the traditional owners of all lands on which we operate or meet around the country.

AFDO acknowledges people with disability, particularly those individuals that have experienced or are continuing to experience violence, abuse, neglect, and exploitation. We also acknowledge their families, supporters, and representative organisations and express our thanks for the continuing work we all do in their support.

This Submission has been compiled by the Australian Federation of Disability Organisations (AFDO) and the National Inclusive Transport Advocacy Network (NITAN). We would also like to express our thanks to the organisations and individuals listed below, who have contributed information, personal stories, and case studies to assist in the writing of this Submission.

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Glossary

- **Australia's Disability Strategy 2021-2031:** Australia's new national disability policy framework driving action at all levels of government to improve the lives of people with disability.
- **Australian Human Rights Commission (AHRC):** the national human rights institution of Australia, originally established in 1986 as the Human Rights and Equal Opportunity Commission. The AHRC is a statutory body that is funded by, but operates independently of, the Australian Government. It is responsible for investigating complaints about discrimination and human rights violations.
- **Australian Human Rights Commission Act 1986 (Cth):** the Act that established the AHRC and articulates its role and responsibilities.
- **Australasian Railway Association (ARA):** the peak body for the rail sector in Australia and New Zealand, representing and advocating for more than 170 member organisations across the rail industry.
- **Convention on the Rights of Persons with Disability (CRPD):** international human rights treaty of the United Nations intended to protect the rights of people with disability.
- **Disability Discrimination Act 1992 (Cth) (DDA):** a federal Act that prohibits discrimination against people with disability in employment; education; access to premises; provision of goods, services, and facilities; accommodation; disposal of land; activities of clubs; sport; and administration of Commonwealth laws and programs.
- **Disability Standards for Accessible Public Transport (DSAPT):** formulated under the *Disability Discrimination Act 1992 (Cth)* and in operation since 23 October 2002, the Transport Standards establish minimum accessibility requirements that must be met by providers and operators of public transport conveyances, infrastructure, and premises.
- **National Disability Strategy 2010-2020 (NDS):** a ten-year national plan for improving the life experiences of Australians with disability, their families, and carers. The NDS seeks to foster an inclusive society that enables people with disability to fulfil their potential as equal citizens. It has recently been superseded by the Australia's Disability Strategy 2021-2031 launched in December 2021.

Executive Summary

Introduction

In this Submission to the Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability (Disability Royal Commission), AFDO and NITAN contend that the repeated failure on the part of the Australian Government to implement recommendations from successive reviews of the Transport Standards is a form of institutional neglect that has and continues to cause systemic harm to people with disability.

Context

In order to demonstrate the extent of this neglect, this Submission will begin with a brief examination of the relevant international Human Rights law and domestic legislation. In line with the United Nations *Convention on the Rights of Persons with Disabilities (CRPD)*, we recognise inclusive transport as a crucial enabling factor for people with disability to live full and independent lives and experience social inclusion.

As this Submission will demonstrate, through its inaction on implementing the review recommendations, the Australian Government is contravening both the CRPD and its own *Disability Discrimination Act 1991 (Cth) (DDA)*, as well as the previous *National Disability Strategy 2010 to 2020* and the recently released *Australian Disability Strategy 2021-2031*, as both past and current strategies explicitly recognise the importance of accessible transport for people with disability.

What causes neglect?

The failure of Government to implement specific Review Recommendations

The primary driver of the institutional neglect embedded in the Transport Standards is the repeated failure to implement specific recommendations from each of the three previous reviews that have been conducted to date. As a result, each review contains largely the same advice and specific recommendations repeated as its antecedent so there has been no change or progress – a situation that would be farcical were it not for the real-life and significant consequences this creates for people with disability.

Unenforceable Compliance Reporting

Another key issue that has been raised in successive reviews is the lack of any real monitoring or reporting mechanisms, meaning that compliance with the Transport Standards is effectively unenforceable. Currently, the only mechanism for ensuring compliance with the Transport Standards by people with disability is through a complaints process which can only be instigated by an individual person with disability who is affected.

Inequitable Complaints Process

Relying solely on an individual complaint for enforcement impedes the capacity of the Transport Standards to act as a driver for any significant change to accessibility of public transport. Further, the complaints process itself is inherently unfair and exposes an individual with disability to financial and emotional risk.

Inaccessible Transport Standards

Institutional neglect is also perpetuated by the very nature of the Transport Standards. Firstly, the Transport Standards heavily reference the Australian Standards, which are not freely accessible to the public and must be purchased at significant cost and thus present a further financial barrier for any complainant or representative body. Secondly, while the DSAPT is available online to download, it is not provided in a range of accessible formats, and is highly technical in nature, likely requiring legal assistance for full comprehension.

DSAPT Modal Exemptions

Another issue that has been repeatedly raised in the five-yearly reviews is that of modal exemptions. These exemptions may be granted for up to five years at a time, and their original intent was to allow an operator or provider “breathing space” under specific and limited circumstances. However, certain providers have been granted ongoing extensions far beyond what is reasonable, ultimately undermining the DDA and thus constituting yet another instance of institutional neglect of people with disability.

Conclusion

By highlighting the sheer extent of this institutional neglect and providing evidence that demonstrates the systemic nature of its impact on people with disability, AFDO and NITAN are drawing a line in the sand between what is and what is not acceptable. People with disability are entitled to inclusive and accessible public transport, and the systemic neglect perpetrated through the Transport Standards cannot be allowed to continue.

Alongside our members, AFDO and NITAN call upon the Australian Government to recognise the neglect they have perpetrated against people with disability, and to ensure it does not continue through the current Modernisation process.

Recommendations

AFDO and NITAN recommend;

1. Funding of the Nationally Inclusive Transport Advocacy Network (NITAN) so that it can be adequately supported to provide systemic advice on behalf of people with disability from a national and jurisdictional perspective to the Federal Government and Commonwealth Public Service Agencies regarding disability access to public transport, the Modernisation of the Transport Standards Process, and the Disability Discrimination Act as it relates to the Disability Transport Standards.
2. That the DSAPT is recognised as only one part of a coordinated whole-of-government response to the issue of inclusive transport. That the whole-of-government approach ensures there is responsibility by all levels of government, federal, state and local. This includes accountability from all levels of government, including government departments. The interaction between, for example, the NDIA and the DSAPT must also be explored. A DSAPT that is achieving its outcomes in the public transport space will alleviate pressure on individualised transport modes which, by their nature are more costly and inefficient. An oversight function must be developed to ensure this whole-of-government work is being undertaken and outcomes regularly reported.
3. That the Department urgently prioritises work to ensure the technical standards associated with the DSAPT are contemporary and co-designed with all parties including people with disability and their representative organisations. This must also ensure that the overriding DDA framework is usable, efficient and non-burdensome for people with disability concerning any interactions and particularly relating to complaints. As part of this work, equal weight must be placed on the workability of technical standards and the mechanisms by which they are enforced.
4. That accurate monitoring and regular reporting must follow the implementation of any new regulations. If not implemented before, then as soon as possible during the current DSAPT. The monitoring of compliance targets must be implemented as these have been featured as a key topic but not addressed in each of the last five-yearly reviews covering the last fifteen years.
5. That the Federal Government through COAG, or other means, must establish a process for the collection of current data and evidence on the extent to which people with disabilities are able to access public transport on an equal basis across all jurisdictions. Data collected must include organisational data, data from complaints and submissions, research, consultation with staff, customers, and the Australian Human Rights Commission. The data collected should be compiled into a report with a jurisdictional break down, which is made publicly available, on either an annual basis, or at a minimum at least every two years.

6. That amendments be undertaken to the DSAPT that includes the requirement of public transport operators and providers to make publicly available action plans to indicate the steps they will take to ensure they will meet the targets as set out in the DSAPT and regularly provide reports on how these are being achieved.
7. That funding be provided for an external party to provide independent oversight of reported compliance and action plans of transport providers. This funding should allow for targeted and systematic reviews or audits of their compliance. This funding should also be directed to ensure oversight of engagement mechanisms set up by transport providers in relation to any co-design work completed.
8. That the *Australian Human Rights Commission Act 1986 (Cth)* be amended to include an allowance for organisations to bring forward complaints in relation to the DSAPT on behalf of a person to both the AHRC and the federal courts. This would address the current undeniable limitations, personal cost and inefficiency of the individual-based complaint mechanism
9. That the DSAPT be updated to either replace references to the relevant Australian Standards with the full text of the applicable standard, or the relevant provisions of the Australian Standards should be appended to the DSAPT in full. Members of the public should not be required to purchase external documents to understand their rights and hold transport operators accountable to the Transport Standards.
10. That people with disability be provided a representative mechanism to provide policy and lived experience advice at either the Ministerial level or the Departmental Secretary level.
11. That the Transport Standards and relevant Australian Standards must be provided in a variety of accessible formats for people with disability.
12. That a range of information resources concerning transport matters be developed and provided in plain language, Easy English, and other accessible formats.
 - a. This should include helplines or services for individuals to contact for more information, in disability accessible formats, without excessive waiting periods.
 - b. Must be tailored to specific areas and include Aboriginal languages, community languages, Auslan videos, and braille or screen reader appropriate formats to ensure that First Nations Australians, Deaf Australians, culturally and linguistically diverse communities, vision impaired and those with an intellectual disability with supports, have full access to this information.
 - c. Including targeted information resources developed that consider barriers experienced by people with particular impairments.

13. That DSAPT and its principles be amended to ensure it is stipulated as a whole of government approach inclusive of all government departments and agencies who must comply with its requirements.
14. That the 2002 decision to exempt school buses from the Disability Transport Standards be immediately overturned by the Government to ensure that any school buses must comply with the Disability Transport Standards.
15. That all formal consultative forums, groups, and committees must have equitable representation by both the independent disabled community, government, and transport providers, to remove the current power imbalance of transport providers holding the majority of seats at the table for strategic discussions.
16. That the recommendations provided by the United Nations concluding observations in the Initial report of Australia, adopted by the Committee at its tenth session (2-13 September 2013) Accessibility (art. 9) along with those from its concluding observations on its second & third periodic reviews be undertaken by the Government as detailed in the extracts below;

a. Concluding observations from initial report;

“20. The Committee notes that the Disability Standards for Accessible Public Transport 2002 and the Disability (Access to Premises – Buildings) Standards 2010 introduce regulations to address accessibility barriers for persons with disabilities. However, it remains concerned at the level of compliance with accessibility standards and regulations in the State party.

21. The Committee recommends that sufficient resources be allocated to ensure the monitoring and implementation of the disability standards and requirements.”¹

b. Concluding observations of second and third periodic reviews;

“17. The Committee is concerned about:

(a) The lack of a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;

18. In the light of article 9 of the Convention and its general comment No. 2 (2014) on accessibility, the Committee recommends that the State party, taking into account goal 9 and targets 11.2 and 11.7 of the Sustainable Development Goals:

¹ United Nations Committee on the Rights of Persons with Disabilities 2013, 2.

(a) Establish and enact a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;”²

² United Nations Committee on the Rights of Persons with Disabilities 2019, 5.

Introduction

NITAN and AFDO welcome the Royal Commission into Violence, Abuse, Neglect, and Exploitation of People with Disability as an opportunity to provide a disabled persons' led voice to the complex issue of inclusion. This Submission will focus on inclusive transport as a crucial enabling factor for people with disability to live full and independent lives.

The significance of transport as a mechanism of inclusion has been recognised by the Commonwealth Government in the recently released Australian Disability Strategy. Under the Outcome Area *Inclusive Homes and Communities*, "Transport Systems are Accessible for the Whole Community" is listed as Policy Priority Five:

*"Being able to use public, private and community transport to move around the community underpins all aspects of life for all people. Being able to move around the community has positive impacts on everyone's health, social life, education and employment. For this to occur, transport and its entry points (e.g. stations and platforms) need to be accessible to everyone, including people with disability."*³

Access to the full range of safe and accessible public transport is a crucial enabler of social inclusion. We define inclusive transport as people with disability having equitable access to the same services, spaces, and products as their non-disabled peers. Unfortunately, in Australian society at present, people with disability who are unable to 'fit' into a non-disabled person's world often experience discrimination or segregation into parallel services. We submit that this failure to provide public transport services that are fully accessible to people with disability represents a failure on the part of the Australian Government in their duty of enabling social inclusion, and as such constitutes institutional neglect.

The Royal Commission has defined 'neglect' as:

*"Includes physical and emotional neglect, passive neglect, and wilful deprivation. Neglect can be a single significant incident or a **systemic issue that involves depriving a person with disability of the basic necessities of life** such as food, drink, shelter, **access, mobility, clothing, education, medical care, and treatment.**"*⁴

In line with this definition, this Submission will contend that accessible public transport, as a "necessity of life", is a basic precondition for the full and equal participation of people with disability in society.

We would highlight the AHRC's recent preliminary decision to grant the Australasian Railway Association (ARA) further exemptions to the Disability Standards for Accessible Public Transport 2002 (Transport Standards)⁵ as a particularly egregious example of this institutional neglect, demonstrating the necessity of this Submission. That this preliminary decision was made within days of the release of the Third Review of the Transport Standards, which cautioned against the granting of such long-term exemptions and questioned the conspicuous absence of the voices of people with disability in making such decisions, is only a further attack on the rights of people with disability.

In order to demonstrate the extent of this neglect, this Submission will begin by briefly outlining the relevant international human rights law and domestic legislation. With an understanding of the Australian Government's obligations under both international and

³ DSS 2021, 12.

⁴ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2020, emphasis added.

⁵ AHRC 2021.

domestic law, this Submission will then examine the history of the Transport Standards and their review process, with particular emphasis given to the recommendations that have emerged from previous reviews. Having established the legislative and procedural background, we will contend that, in failing to act in accordance with the legislation and repeated recommendations, the Australian Government has failed in its obligation to provide accessible and inclusive transport to people with disability, and in doing so has perpetrated institutional neglect of people with disability under the terms of the Royal Commission.

This Submission will establish the means by which institutional neglect has woven itself into the disability transport standards review process. While this neglect may have originally been inadvertent, it has been compounded and perpetuated by a repeated failure to implement the recommendations made in the first review. These repeated instances of institutional neglect have resulted in myriad negative outcomes for people with disability, including a lack of equity in representation in decision-making processes; a lack of funding to address and implement the standards; and a lacklustre commitment to and shallow understanding of the centrality of accessibility for people with disability on the part of a number of transport providers.

This Submission will also describe the structural weaknesses of the Disability Transport Standards, which have remained largely unaddressed in the recurrent review recommendations resulting in a lack of federal leadership.

This is in contrast to the states and territories, which have worked to increase accessibility of public transport systems to a greater extent (Melbourne's tram network of disability accessible tram stops) or lesser extent (Queensland Rail's purchase of trains that were not accessible, followed by a refusal to address the accessibility issue as per the Commonwealth Transport Standards and continuing delays to rectification works to meet the standards).

The accessibility work being done at the state and territory level seems entirely divorced from the Commonwealth Standards framework and process, though they continue to use the Framework and Complaints Mechanism, albeit with apparent lessening enthusiasm over the course of the review period.

The combination of all of these factors has had a significant impact on people with disability, who have been almost completely disenfranchised from the Disability Transport Standards – both as a guide to the interaction of accessibility and public transport, and also through any complaints resolution mechanism.

This situation has served to erode the trust of people with disability in the Transport Standards themselves as a guide to improving accessibility; in the Australian Human Rights Commission (AHRC), who have coordination responsibility for the Standards and who administer the complaints mechanism; and in the Department of Infrastructure and Transport, who represent the Government's position in regard to the Transport Standards. Several case studies will be included to further illustrate the deleterious effect that this neglect continues to have on people with disability and their capacity to live full and equal lives.

Through this Submission, AFDO and NITAN mean to draw a line in the sand between what is and what is not acceptable. This line represents a demarcation between the current Standards, against which people with disability have experienced unequal power relations in determining and participating in transport as inclusion, and the modernisation of the Standards that is now underway.

International & Domestic Human Rights & Legislative Obligations

“Accessibility is related to groups, whereas reasonable accommodation is related to individuals. This means that the duty to provide accessibility is an ex-ante duty. States parties therefore have the duty to provide accessibility before receiving an individual request to enter or use a place or service.”⁶

While the Convention on the Rights of Persons with Disabilities (CRPD) does not explicitly define inclusion, the Committee on the Rights of Persons with Disabilities has stated that accessible transport is a precondition for the social inclusion of people with disability in their communities.⁷ Further, the Committee defines being part of the community as “living a full social life and having access to all services offered to the public”⁸ and “having access to all measures and events of political and cultural life in the community,”⁹ both of which necessarily include accessible transport. Having ratified the Convention, the Australian Government recognises that accessible transport is a precondition for inclusion and independent living and is thus legally obliged to ensure its provision.

The issue of inclusive and accessible transport falls under multiple different articles within the CRPD, with Article 9: Accessibility being the most relevant:

Article 9/1:

“To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

*(a) Buildings, roads, **transportation** and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;”¹⁰*

Article 9/2:

“States Parties shall also take appropriate measures to:

(a) Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;”¹¹

Other CRPD rights pertaining to accessible public transport include:

- Article 5 – Equality and non-discrimination.
- Article 12 – Equal recognition before the law.
- Article 13 – Access to justice.
- Article 19 – Living independently and being included in the community.
- Article 20 – Personal mobility.¹²

⁶ United Nations Committee on the Rights of Persons with Disabilities 2014, s. 22, 7.

⁷ Ibid., s. 1, 2.

⁸ United Nations Committee on the Rights of Persons with Disabilities 2017a, II. A. (b), 4.

⁹ Ibid.

¹⁰ United Nations 2006, art. 9, emphasis added

¹¹ Ibid.

¹² United Nations 2006, art. 5, 12, 13, 19, 20.

The right to inclusion is enshrined in Article 19, which recognises the “equal right of all persons with disabilities to live in the community, with choices equal to others.”¹³ The Convention further states that people with disability should have access to services “necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community”,¹⁴ and that community services and facilities for the general population must be “available on an equal basis to persons with disability and are responsive to their needs”,¹⁵ both of which require access to inclusive transport.

General comment no. 5 (2017) on living independently and being included in the community explicitly defines what “being included in the community” means:

*“The right to be included in the community relates to the principle of full and effective inclusion and participation in society as enshrined in, among others, article 3 (c) of the Convention. It includes living a full social life and **having access to all services offered to the public** and to support services offered to persons with disabilities to enable them to be fully included and participate in all spheres of social life. These services can relate, among others, to housing, **transport**, shopping, education, employment, recreational activities and all other facilities and services offered to the public, including social media. The right also includes having access to all measures and events of political and cultural life in the community, among others, public meetings, sports events, cultural and religious festivals and any other activity in which the person with disability wishes to participate.”¹⁶*

The CRPD Committee reviewed Australia’s compliance with Article 9 in 2013 and 2019.¹⁷ Their concerns and recommendations regarding Article 9 were the same in both the 2013 and the 2019 reports. The CRPD Committee was concerned that:

“The lack of a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;”¹⁸

And recommended:

“Establish and enact a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;”¹⁹

Again, we see a pattern of persistent neglect emerge, demonstrating a lack of progress so stark that even the CRPD Committee is concerned and echoes the recommendations from previous reviews. It is this pattern of evidence that we believe constitutes the institutional neglect embedded in the very fabric of the Transport Standards compliance process.

¹³ United Nations 2006, art. 19.

¹⁴ Ibid., (b).

¹⁵ Ibid., (c).

¹⁶ United Nations Committee on the Rights of Persons with Disabilities 2017a, II. A. (b), 4, emphases added.

¹⁷ United Nations Committee on the Rights of Persons with Disabilities 2013; United Nations Committee on the Rights of Persons with Disabilities 2019.

¹⁸ United Nations Committee on the Rights of Persons with Disabilities 2019, III. B. 17.(a), 5.

¹⁹ United Nations Committee on the Rights of Persons with Disabilities 2019, III. B. 18.(a), 5.

In addition to ratifying the CRPD, the Australian Government has further enshrined its commitment to inclusion in the *Australian Human Rights Commission Act 1986*. This federal law prohibits discrimination on a number of grounds, including “impairment, mental, intellectual or psychiatric disability, [and] physical disability”.²⁰ Established alongside the Act, the Australian Human Rights Commission (AHRC) is the national human rights body of Australia and is responsible for investigating claims of discrimination.

In relation to disability, the AHRC investigates alleged infringements under the federal *Disability Discrimination Act 1991 (Cth) (DDA)*, which prohibits discrimination on the basis of:

*“... physical, intellectual, psychiatric, sensory, neurological or learning disability, physical disfigurement, disorder, illness or disease that affects thought processes, perception of reality, emotions or judgement, or results in disturbed behaviour, and presence in body of organisms causing or capable of causing disease or illness...”*²¹

The DDA covers discrimination in a number of areas, with “access to premises” and “provision of goods, services and facilities”²² being those most relevant to transport. The DDA differentiates direct discrimination from indirect discrimination, with the latter being defined as:

- (a) the discriminator requires, or proposes to require, the aggrieved person to comply with a requirement or condition; and*
- (b) because of the disability, the aggrieved person would comply, or would be able to comply, with the requirement or condition only if the discriminator made reasonable adjustments for the person, but the discriminator does not do so or proposes not to do so; and*
- (c) the failure to make reasonable adjustments has, or is likely to have, the effect of disadvantaging persons with the disability.*

The DDS provides that a failure to make reasonable adjustments for a person with a disability under the DDA could be either direct or indirect discrimination. It is clear, then, that the failure to provide reasonable accommodations to people with disability constitutes indirect discrimination under the DDA.

In addition to this federal legislation, each State and Territory has enacted its own discrimination laws. These are:

- *Discrimination Act 1991 (ACT)*
- *Anti-Discrimination Act 1977 (NSW)*
- *Anti-Discrimination Act 1996 (NT)*
- *Anti-Discrimination Act 1991 (QLD)*
- *Equal Opportunity Act 1984 (SA)*
- *Anti-Discrimination Act 1998 (TAS)*
- *Equal Opportunity Act 2010 (VIC)*
- *Equal Opportunity Act 1984 (WA)*

²⁰ AHRC 2014.

²¹ AHRC 2014.

²² Ibid.

Though the State and Territory Acts differ in their minutiae and degree of rigour, all contain provisions to prevent discrimination on the basis of disability or impairment.

The federal DDA is operationalised in relation to transport through the Disability Standards for Accessible Public Transport 2002 (Transport Standards), formulated by the Attorney General under subsection 31(1).²³ The Transport Standards establish the minimum accessibility requirements that must be met by providers and operators of public transport conveyances, infrastructure, and premises. The Transport Standards apply to train, tram, bus and coach, ferry, taxi, and aviation services and are designed to provide certainty to providers and operators of public transport services and infrastructure about their responsibilities under the DDA.²⁴

In his report for the Disability Royal Commission in October 2020, 'The Convention on People with Disabilities: An Assessment of Australia's Level of Compliance', Emeritus Professor Ron McCallum reported on the CRPD Committee's Assessment of Australia's Compliance with Article 9:

"In a series of interactions between 2010 and 2019, the CRPD Committee and the Australian government discussed Australia's compliance with article 9. In its Initial Report to the CRPD Committee in 2010, the Australian Government explained that under section 31 of the Disability Discrimination Act 1992 (Cth), the relevant Minister may promulgate legislative instruments prescribing enforceable disability standards on a wide range of matters. The Government referred to the Transport Standards 2002 which set forth minimum accessibility standards to be met by public transport providers.

These standards require any new transport systems to be fully accessible, and allow for gradual implementation of the standards for existing systems. In 2013 and again in 2019, the CRPD Committee expressed its concerns about the length of time it was taking to ensure full transport accessibility, and recommended that measures be put in place to ensure mandatory implementation of the standards and monitoring of compliance.

The CRPD Committee in its 2019 Concluding Observations recognised the importance of the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services. However the Committee highlighted the lack of a national frameworks for reporting compliance."²⁵

²³ Attorney-General's Department 2005, ss. 31(1).

²⁴ Department of Infrastructure, Transport, Regional Development and Communications 2021b.

²⁵ McCallum 2020, 34.

Brief History of the Transport Standards

AFDO and NITAN would draw the Commission's attention to the Disability Standards for Accessible Public Transport (DSAPT; The Standards)²⁶ which continue to not be adhered to, leading to poor promotion of inclusion throughout Australian society. The DSAPT were formulated under the *Disability Discrimination Act 1992 (Cth) (DDA)* and came into operation on 23 October 2002. The Standards establish minimum accessibility requirements to be met by providers and operators of public transport conveyances, infrastructure, and premises. The Standards consider the range of disability covered by the DDA and apply to most public transport premises, infrastructure, and conveyances.

The DDA provides protection for everyone in Australia against discrimination based on disability. Disability discrimination happens when people with a disability are treated less fairly than people without a disability. Disability discrimination also occurs when people are treated less fairly because they are relatives, friends, carers, co-workers or associates of a person with a disability.

The DDA encourages everyone to be involved in implementing the Act and to share in the overall benefits to the community and the economy that flow from enabling participation of all members of the community.

The Australian Human Rights Commission (AHRC) is obliged under section 67(e) of the DDA: "to monitor the operation of such standards and report to the Minister the results of such monitoring".²⁷ Despite conducting regular five-yearly reviews, compliance to the standards continues to be extremely poor.

Complexity of the Transport Standards

While public transport passenger use areas are protected by Commonwealth, state and territory discrimination laws, the protections are not uniform and have complex interactions with the codes and Transport Standards. When the Transport Standards were developed in 2002, outdated standards already in place were incorporated, where they remain to this day. This is despite the wealth of disability research and literature that has emerged through the 1990s and early 2000s, which could easily be used to develop better Transport Standards.

Review process

Part 34 of the Transport Standards requires the Minister for Infrastructure, Transport and Regional Development, in consultation with the Attorney-General, to review the efficiency and effectiveness of the Transport Standards within five years of them taking effect, with subsequent reviews to be undertaken every five years.²⁸ The reviews must consider whether discrimination has been removed as far as possible, according to the requirements for compliance set out in Schedule 1; and any necessary amendments to the Transport Standards.

Despite having conducted three five-year reviews to date, all of which have broadly stated the same set of recommendations,²⁹ compliance to the standards continues to be poor with minimal evidence of progress and few consequences for failure to adhere.

²⁶ Attorney-General's Department 2005.

²⁷ *Disability Discrimination Act 1991 (Cth.)*, s. 67(e).

²⁸ Attorney-General's Department 2005, part 34.

²⁹ See Appendix 1.

Why DSAPT & Reviews Constitutes Institutional Neglect?

We submit that the repeated failure of the Australian Government to implement the recommendations reiterated in successive reviews of the Transport Standards has resulted in systemic flaws preventing the provision of inclusive transport and consequent negative outcomes for people with disability. We submit that this constitutes institutional neglect under the terms of the Disability Royal Commission.

The terms of reference provided in the Disability Royal Commission include the question of what can be done to promote a more inclusive society; that is, one that “supports the independence of people with disability and their right to live free from violence, abuse, neglect, and exploitation”.³⁰

The importance of independence is further stressed in the ‘Promoting Inclusion’ Issues Paper, where transport is explicitly listed as a potential barrier to inclusion, and subsequently the autonomy of people with disability to live on an equal basis with others.³¹

We take these acknowledgements as a tacit understanding on the part of the Commission of the crucial importance of accessible public transport, and the enabling role it plays in promoting social inclusion for people with disability. Failure to provide what is, in the Commission’s own words, a “necessit[y] of life”,³² must thus be considered as institutional neglect.

In this Submission, we will highlight five key mechanisms through which this neglect is occurring

1. Inaccessible Transport Standards
2. Inequitable complaints process
3. Unenforceable compliance reporting
4. DSAPT modal exemptions
5. Legislative review timeline

The five issues explored in this Submission have been raised repeatedly in both the five-yearly reviews and through the DSAPT modernisation regulatory impact statement process, and yet despite having had nearly 20 years to do so, they remain largely unaddressed by both the Australian Government and transport providers.

These are tangible examples of bureaucratic neglect where inclusion is being ignored, resulting in poor social outcomes for Australians with disability.

³⁰ Australian Government 2021.

³¹ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability 2020

³² Australian Government 2021.

What Causes Neglect? The Failure to Implement Review Recommendations

Under Part 34 of the Transport Standards, the Minister for Infrastructure, Transport and Regional Development, in consultation with the Attorney General, is required to review the efficiency and efficacy of the Transport Standards on a five-yearly basis.³³ The purpose of these reviews is to consider whether discrimination has been removed – as much as is reasonably possible – in line with the compliance requirements laid out in Schedule 1.

Since the establishment of the Transport Standards in 2002, three reviews have been completed. The first five-year review commenced in 2007, with the final report and Australian Government response being released in June 2011. The second review was commenced in 2012 with the final report and Australian Government response released in July 2015. The most recent review was released to the general public on 2 December, 2021.

We are concerned about the failure to implement a significant number of recommendations from the two previous reviews of the Transport Standards. Having reviewed and analysed the two previous reports, we found that the same issues had been raised, the same recommendations made, and yet, on the majority of these issues and recommendations, no tangible progress had occurred. Whilst the Commonwealth has always responded to each Review of the Transport Standards with supportive statements, these have not translated into real action or outcomes. In light of this marked lack of progress, we find the self-congratulatory tone that permeates the reports to be deeply disrespectful to people with disability.

In our 2018 Submission on the second review, AFDO noted that, of a total of 22 recommendations contained within the first and second reviews, only five showed evidence of any action being taken.³⁴ In the recently released third review, the Australian Government claims to have acted on four out of the seven recommendations from the second review.³⁵

The four recommendations being implemented are:

- **Recommendation 1: Modernise the Transport Standards**

Originally commencing in 2015, the National Accessible Transport Taskforce commenced work on a new refreshed two-stage process in 2019. The Stage 1 Consultation Regulation Impact Statement was released in February 2021 with work on Stage 2 commencing in 2021 and to continue throughout 2022.³⁶ AFDO and NITAN note that this remains in progress and was not completed prior to the commencement of the third review.

³³ Attorney-General's Department 2005, part 34.

³⁴ AFDO 2018.

³⁵ Department of Infrastructure, Transport, Regional Development and Communications 2021a.

³⁶ *Ibid.*, 21.

- **Recommendation 2: National reporting on progress against the Transport Standards**

Per the third review, it is stated that a national framework for reporting on progress against the Transport Standards “is being considered” as part of Stage 2 of the aforementioned modernisation progress.³⁷ AFDO and NITAN would take the view that “being considered” does not meet the standard of being implemented.

- **Recommendation 4: Whole-of-journey accessibility**

The Whole Journey guide was released on International Day of Persons with Disabilities in 2017 by the then Minister for Transport and Infrastructure, the Hon Darren Chester MP.³⁸

- **Recommendation 7: Review of Disability Access Facilitation Plan**

The review of the Disability Access Facilitation Plan was completed in consultation between the Department and the Aviation Access Forum on 30 June 2015.³⁹

We would highlight multiple areas of concern within the Transport Standards that have failed to be addressed across successive reviews. These are:

- Unenforceable compliance reporting.
- Inequitable complaints process.
- Inaccessible Transport Standards.
- DSAPT modal exemptions.
- The legislative review timeline.

We submit that the failure to implement the review recommendations, and consequently, the failure to address these issues, is a breach of the Commonwealth’s legal obligations to people with disability and constitutes institutional neglect under the terms of the Royal Commission.

In its report to the CRPD Committee in July 2019, the Australian Human Rights Commission (AHRC) conveyed its view that “the transport standards and the premises standards have been weakened by failures to ensure consistent application and implementation.”⁴⁰

As Mr Geoff Trappett OAM, Chair of NITAN, pointed out in his evidence to the Senate Finance and Public Administration References Committee Inquiry into the Current Capability of the Australian Public Service on the 21st of July, 2021:

“Sadly, time and time again, issues raised through the five-yearly reviews of the DSAPT by the disabled community and recommendations within the scope of this inquiry – including those supported by government – have been put forward that the disabled community has seen very little movement on.”

³⁷ Department of Infrastructure, Transport, Regional Development and Communications 2021a, 21.

³⁸ Ibid.

³⁹ Ibid., 22.

⁴⁰ AHRC 2019.

To focus on a few for the purposes of explanation, today I will touch on two recommendations from the second review. The final report and Australian Government response on the second review having been publicly released by the Australian Government on 10 July 2015 meeting the time constraints of this inquiry.

The first recommendation is that the Australian Government, jointly with State and Territory governments, commence a process for updating and modernising the Transport Standards.

The Australian Government recognises that, ten years after inception, some parts of the Transport Standards may not be meeting the current and future needs of people with disability or provide sufficient flexibility or guidance to providers and operators in their efforts to fulfil their obligations under the Disability Discrimination Act. The Australian Government will commence a process for updating the Transport Standards which will involve close consultation with industry, all levels of government and the disability sector. This work is to be completed by 30 June 2017.

With the Department stating that legislative amendments for an extensively revised version of the Transport Standards expected to be finalised by 2023 there can be no doubt that the rights of disabled people have been impinged by a lack of prioritisation by both government and by consequence the Australian Public Service.

Accepting that work is now underway, the disabled community has simply not seen these crucial reforms made a priority. We have seen no accountability by senior executives within the department. The completion of this work has not appeared in key performance indicators. This speaks to a level of institutional neglect by the Commonwealth on the matter.”⁴¹

⁴¹ Trappett 2021.

What Causes Neglect? Unenforceable Compliance Reporting

One of our primary concerns is that compliance with the Transport Standards is not effectively enforceable. Currently, the only mechanism for ensuring compliance with the Transport Standards is through a complaints process which can only be instigated individually by people with disability, mirroring the complaints process under the DDA.

The inability for the Transport Standards (and the anti-discrimination legislation it is embedded in) to enforce any compliance in the operation of public transport services also means it has no force at the design, tender and quotation, or development and building stages, leading to accessibility oversights that require costly rectification works or that are simply ignored, as was the case in the recent Queensland Rail decision.

We are also concerned about the current dissonance between the Transport Standards and the DDA highlighted by *Haraksin v Murrays Australia (2013)*.⁴² This is an example of the flaws that exist around accountability and enforcement of the Transport Standards. We believe that a breach of the Transport Standards should be unlawful and that the Transport Standards should be amended to reflect this position.

“A fundamental problem with the transport standards relates to enforcement or the ability to enforce the standards and these are the same limitations with the enforcement of the Disability Discrimination Act, which many of you will be familiar with, but there is overall a lack of enforcement mechanisms other than through individual complaints. The current individual complaints-based process is not appropriate for adequately and equitably addressing the implementation of the standards and there are a number of limitations on the use of legal processes by individuals to enforce compliance of the transport standards, notably costs, but the only real way to enforce the standards now is to have an individual lodge a complaint to the Australian Human Rights Commission or to bring a proceeding to the Federal Court.”⁴³

There is a lack of a detailed and comparable reporting mechanisms to allow for the measuring of compliance with the Transport Standards across all jurisdictions. Recommendation 1 of the 2012 Review stated that “the Commonwealth Government, jointly with state and territory governments, establish a national framework for reporting on progress against the Transport Standards”.

We are concerned that the lack of a nationally consistent audit of Transport Standards compliance is preventing the review from measuring progress against compliance targets with any accuracy; an issue that was recognised by the Commonwealth Government back in the first 2007 Review.

⁴² *Haraksin v Murrays Australia Limited (No 2)* [2013] FCA 217.

⁴³ Comment from the Public Interest Advocacy Centre at the AFDO / AHRC Transport Forum Friday 9th November 2018 Sydney.

“There is also no national framework for operators and providers, no national reporting framework that requires them to positively report on where they're at in compliance with the transport standards, and we've submitted previously that the transport standard should be amended to require the operators and providers to make publicly available data that sets out the extent to which they comply with the standards. There's a current provision for operators and providers to provide action plans to the Australian Human Rights Commission for publication on their website, but that's not a mandatory requirement and I'm not quite sure how many operators and providers adhere to that...”⁴⁴

Compliance reporting is a fundamental tenet of technical, infrastructure-based legislation, as without it, there is no governance risk for transport providers, and thus no impetus for them to amend their budget to include provisions for legislative compliance. This lack of monitoring and reporting has been noted in each and every five-year review, as well as during the creation of the DSAPT – that it still has not been actioned clearly illustrates institutional neglect.

In summary, we are asking for a new strategy for the Transport Standards, one that contains an effective mechanism for enforcing compliance, as well as the necessary monitoring and nationally consistent data collection to ensure it is being implemented and targets set are known and are being met.

Example of Systemic Neglect: Queensland Next Generation Rolling stock Trains

Queenslanders with Disability Network (QDN) is the peak body for Queenslanders with disability and operates a state-wide network of members with diverse disability across the state. QDN believes that every person with disability has the right to be able to access Queensland's public transport system to get to their destination, whether for employment or recreation, when and where they need to. Over the past 20 years of its operation, QDN and our members have been actively involved around the important issue of accessible and inclusive public transport in Queensland.

In particular QDN has worked through submissions, representations, committees and consultations to provide feedback and input into the New Generation Rolling Stock which was originally initiated by the Queensland Government under Premier Bligh, and then carried out under Premier Newman in 2013 included the procurement of non-compliant trains, and subsequent Governments who have managed the implementation of this train stock.

The Disability Standards for Accessible Public Transport 2002 (DSAPT) are Disability Standards developed under the Disability Discrimination Act 1992 (DDA). The DDA gives DSAPT legal force. Compliance with DSAPT may be achieved through meeting the prescribed solutions stated in the DSAPT or by means that deliver an equivalent or better outcome. Any Equivalent Access solution requires consultation with 'passengers with disabilities who use the service, or with organisations representing people with disabilities'.

Failure to genuinely consult on the design of the New Generation Rolling stock (NGR) train resulted in a successful challenge to the outcome by the disability sector. This

⁴⁴ Comment from the Public Interest Advocacy Centre at the AFDO / AHRC Transport Forum Friday 9th November 2018 Sydney.

resulted in a Next Generation Rolling Stock Commission of Inquiry tasked to find where the process had erred. Commissioner Michael Forde's report on the New Generation Rolling stock (NGR) train Commission of Inquiry outlined 24 recommendations and a commitment by the Queensland Government to carry out all 24 recommendations. The report found that the NGR trains failed to comply with disability legislation and functional requirements. It also outlined the requirements to consult and include people with disability from the beginning in the planning, design, delivery and implementation prior to procurement. The outcome was a reflection of the determination and tenacity of people with disability to lobby for this change.

However, following this review, in 2017 and 2018, decisions were made to introduce NGR stock into service without being compliant with the DSAPT and prior to the outcome of a ruling from the Australian Human Rights Commission on the Exemption application. Whilst acknowledgement was given to the need for new trains to replace ageing train stock, and need to have NGR stock tested and in operation by the 2018 Gold Coast Commonwealth and Paralympic games, the Queensland disability community raised concerns that this must be done in a manner that ensures legislative compliance and upholds the rights of people with disability to accessible public transport. People with disability should not be disadvantaged or suffer discrimination over the duration of any temporary exemption simply because the NGR trains were not designed to current Australian Standards, and Government proceeded with procurement.

Legislative instruments had been in place for over 15 years to protect and uphold the rights of people with disability to accessible public transport. However these legal and regulatory instruments have had limited effect on the outcomes on the ground for people with disability who are in an ongoing situation of 'putting up with' non-compliant public transport solutions. Subsequent reviews, decisions, upgrades, protracted timelines and applications for exemptions continue in 2022 to impact directly on the daily lives people with disability. This is a systemic issue and needs to be addressed to deliver improvements and outcomes and real change for people with disability.

What Causes Neglect? Inequitable Complaints Process

We feel strongly that the reliance on individual complaints for the enforcement of the Transport Standards impedes the capacity of the Standards to act as a driver for change to accessibility of public transport. This places an unnecessary administrative burden and also an onerous financial risk on people with disability, who should by now have equitable access to Australia's public transport infrastructure as required by the Transport Standards as with any other service user.

The complaints process, which is mediated by the Australian Human Rights Commission (AHRC), brings the complainant, normally a person with disability, and a respondent, normally a public transport operator or provider, together to negotiate a settlement. The person with disability is normally only able to represent themselves, while the respondent often has a team of lawyers. Because of the inherent unfairness of this system, the resulting negotiated settlement, if one is reached, may still not result in compliance with the Transport Standards.

While it is true that complainants may seek to have unresolved discrimination complaints adjudicated by the Federal Courts, this is often not a viable course of action for many people with disability as it exposes them to further financial risk. In addition, the legal process and judicial system are both onerous and time-consuming, and the risk of emotional or psychological effects can often mean people with disability withdraw from the process prior to its conclusion.

As noted above, the complaints system can only be used to seek compensation for discriminatory conduct. It cannot stop public transport operators from purchasing and using non-compliant conveyances for considerable lengths of time. This is at odds with the fact that litigations costs are an inherent part of the process of bringing a complaint on and can run into the tens of thousands of dollars. AFDO believes that costs should be borne by each party.

“Just speaking from the kind of very remote context, so working in indigenous communities which are up to 12 hours’ drive from their closest regional hub, people are very vulnerable in terms of accessing services and I think there's issues in terms of the complaints process about nervousness about the process, lack of awareness of the process, but more than that, people not actually even feeling entitled or empowered to have access to accessible transport in the first place. So obviously that's an issue around community education. I think it gives another reason why the enforcement mechanisms and accountability and consequences need to be more broad than just the individual complaints process because I feel like it's only going to be certain people that are really going to feel empowered to access that process in the first place.”⁴⁵

⁴⁵ Comment from the NPY Women's Council Alice Springs at the AFDO / AHRC Transport Forum Friday 9th November 2018 Sydney

Example of Systemic Neglect: Inaccessible Transport Complaint Process

What follows is an outline of a single work trip undertaken in May 2019 by two Victorians, both of whom use electric wheelchairs. As is usually the case, the journey involved a catalogue of obstacles which together rendered the trip unreasonably stressful and very long.

In general people's lives are already too full and complicated to undertake a complaints process. In this instance Susan and Janet did everything they could to effect change. It was costly, time consuming and humiliating. Over two years later there are no signs of improvement. They and the rest of their community have learnt that the complaints process changes nothing.

Summary of Complaint:

Janet and Susan were travelling from Melbourne to Warrnambool on 14th May 2019 for a work event from which they planned to return on 15th. Two phone calls had been made well in advance to book the tickets and to confirm that the service was accessible.

- Janet had booked a first-class ticket in order to work with her colleagues on the journey. VLine had confirmed the carriage was accessible. On arrival at the platform she was told she was not able to sit with her colleagues and she was ushered to another carriage away from her team.*
- During the journey to Warrnambool she received a phone call from VLine to advise her that her return journey on Wednesday at 17:43 would not be accessible. The suggestion was that she travel earlier in the day. Janet responded that her commitments did not afford her that flexibility.*
- On Wednesday 15th Janet received another phone call at 12:30 to confirm that she would not be able to board the 17:43 service. VLine asked if she could get out of her wheelchair and put it in the conductor's area. Susan replied that she needed her wheelchair. VLine agreed to send a taxi.*
- On arrival at the station Janet needed to use the station toilets before travelling 3.5 hours to Melbourne. Warrnambool station allegedly has accessible toilets, but the toilet is located down a corridor after two ambulatory cubicles behind swing doors. There is insufficient space for Janet to turn her wheelchair to enter the 'accessible' cubicle, which renders this an inaccessible toilet.*
- When the taxi arrived VLine had assumed both Janet and Susan would be able to share a taxi. As they are both wheelchair users this obviously was not possible. A second cab was ordered in the face of much reluctance and after a lengthy phone call.*
- Warrnambool has a limited number of wheelchair accessible taxis. Janet and Susan had been attending a forum that was attended by many others with accessibility needs on the same day. By sending two local taxis all the way to Melbourne and back, many others were left stranded and unable to access transport.*

Complaint Process & Outcomes:

- *Janet and Susan took their case to the Public Transport Ombudsman. On 17th July a meeting was held with the complainants, a VLine customer relations officer and the VLine Accessibility Manager.*
- *Outcomes involved a written apology and a sharing of the VLine Accessibility Plan 2019-22.*
- *Janet and Susan sought the assistance of the Disability Discrimination Legal Services who advised that the issues they experienced with the inaccessible rolling stock was not something they could take any further, as VLine is covered by the ARA's exemptions to the Disability Standards for Accessible Public Transport.⁴⁶*

⁴⁶ Case study provided by Disability Resources Centre.

What Causes Neglect? Inaccessible Transport Standards

As a mechanism for preventing disability discrimination, the Transport Standards should be freely accessible to all – *especially* to people with disability, who are most likely to need them. Unfortunately, this is currently not the case, with multiple barriers to access still in place.

The United Nations has defined accessibility as the “provision of flexibility to accommodate each user’s needs and preferences”,⁴⁷ and recognises that it is a “precondition for an inclusive society for all”.⁴⁸ When speaking of disability, AFDO and NITAN imagine accessibility as that which bridges the gap between an individual’s unique needs and the realisation of their social, economic, cultural, and political inclusion. In line with the social model of disability, the CRPD itself defines the very concept of disability as one of *lack of access*, rather than a fixed state of individual being.⁴⁹ Thus, when we speak of the Transport Standards as being *inaccessible* to people with disability, we mean they are *disabling* by failing to account for an individual’s needs.

Two concrete examples of this lack of accessibility in the Transport Standards are their reliance on the Australian Standards and the format in which they are provided. The Australian Standards are referenced throughout the DSAPT and are necessary to understanding it. That they are not freely accessible to the public creates an issue of financial access, where only those who can afford to may access the Australian Standards. This is particularly concerning given that people with disability tend to be of lower socioeconomic status and thus are less likely to be able to afford this additional cost.

This creates a situation where, in order to understand the very legislation purportedly designed to promote their inclusion, people with disability must either put themselves at financial risk by paying for the Australian Standards – if this is even possible for them – or, put their trust in a third party to interpret the legislation. Typically, this would be an access consultant paid by the transport provider – hardly a neutral or nonpartisan source.

In addition, while the DSAPT are available online to download at the Federal Register of Legislation, they are not provided in the necessary accessible formats, such as audio, braille, or Easy English. In order to ensure that all people with disability have equitable access to the DSAPT, a range of resources in various accessible formats should be provided.

This must include helplines or services that individuals can contact for accessible information without experiencing excessive wait times. Such information would also be provided in a range of Aboriginal languages, community languages, Auslan, and braille or screen reader appropriate formats to ensure that First Nations Australians, Deaf Australians, and culturally and linguistically diverse communities have full access to this information.

In addition, we recommend the development of targeted information resources for people with disability in accessible formats that consider barriers experienced by people with particular impairments.

The inflexible and inaccessible nature of the DSAPT also means they are ill-equipped to deal with emerging transport issues as technology continues to develop. An example of this can be seen in the recent situation in Tasmania, where Personal Mobility Devices (PMD) such as e-scooters were posing a threat to pedestrians, in particular people with disability:

⁴⁷ Valdes 1998.

⁴⁸ DESA 2015, i.

⁴⁹ United Nations 2006.

“Another issue is that blind and deaf pedestrians may not be able to see or hear PMD riders coming – placing them at increased risk of being hit. This is also true for people with mobility impairments, such as people using walking frames or sticks who have slower walking speeds and who can’t get out of the way of people using PMD’s who aren’t abiding by the rules.”⁵⁰

AFDO and NITAN submit that this failure on the part of the Australian Government to make the Australian Standards, and thus the Transport Standards themselves, freely accessible to people with disability represents yet another example of ongoing institutional neglect.

⁵⁰ Disability Voices Tasmania, 2022, 1.

What Causes Neglect? DSAPT Modal Exemptions

Another issue that has been repeatedly raised in the five-yearly reviews is that of modal exemptions. Under Section 55 of the DDA, the AHRC has the power to grant temporary exemptions from certain provisions of the Act. These exemptions may be granted for up to five years at a time, with the effect that discrimination covered by the exemption is not unlawful under the Act so long as the exemption remains in force.⁵¹

The original intent of these exemptions was to allow an operator or provider “breathing space” when required under specific and limited circumstances. For example, Brisbane City Council was granted a temporary exemption in 2011 after flooding caused extensive damage to its ferry terminals. The Council acted in good faith and the temporary exemption has now lapsed, with the Council back on track to meet its compliance targets.⁵² Unfortunately, these exemptions are often used in bad faith in a manner contrary to their original purpose, with some providers and operators being granted repeated exemptions, rendering their “temporary” status moot.

AFDO and NITAN submit that by granting multiple ongoing extensions, the AHRC has ipso facto allowed these exemptions to become effectively permanent, causing progress towards accessible public transport to stagnate.⁵³ This ultimately undermines the DDA and as such constitutes institutional neglect of people with disability.

A particularly egregious example of the neglectful impact that modal exemptions can have on people with disability and their families occurs with the exemptions that school bus operators have been provided. Below is a story regarding Jamie and his family highlighting the neglectful impact this exemption had on him, his family and his school experience;

What have been the major difficulties in getting to and from school?

We rely on a wheelchair accessible van. My partner and I have to juggle our work day so that one of us can drop him off and the other person can pick him up.

We have used the school taxi program. It is extremely unreliable. Taxis have regularly not turned up or been extremely late and therefore making us parents late for work. In the years we have had two children at the same school the school taxi program only can take my child in a wheelchair to and from school therefore I am trying to pick up and drop off the other child as well. I have had to regularly race to my car after putting my child in the wheelchair taxi after school and get through peak traffic to be able get home with my other child to meet the taxi at the other end. A taxi has once dropped off my then 7yr old at my door with no one home. I saw the wheelchair taxi coming the other way past me up the hill when I was still blocks away from my house.

⁵¹ DDA 1992 (Cth), s. 55.

⁵² Mcpherson 2018, 41.

⁵³ Mcpherson 2018.

Jamie attends numerous appointments that impact his school day but the school taxis will only travel from the home address to school and also around 9am and 3pm. Eg. If Jamie had an in-home appointment in the morning we could not use the school taxi. It could not be used for a different pick up or arrival address (eg physio or GP) to or from school even if that address was closer to the school than our home address is.

How does this impact the child or young person's experience of school?

Jamie did not enjoy the experience of the school taxi scheme the way it was run. It brought unnecessary pressure on him with the worry of being late to school, travelling alone, would staff be there at the other end (not always) and arriving late into the classroom. He did not enjoy being late at all and raised his anxiety levels in the morning and as the school day was coming to an end.

How does this impact you and other members of your family?

It brought stress on us as parents due to the unpredictability of the arrival of taxis. Our employers are not entirely sympathetic to our child's situation and we felt pressure and stress when we were late for work as well. Our other child was impacted from her class time because we could not leave Jamie alone at home to drop her off at school and leave him at home. If Jamie was late regularly due to the taxis then we all were.

Has the school or NDIS/LAC been able to assist?

We removed Jamie from the school taxi scheme as he started to experience his first anxiety attacks due to the system. He refused to get in. We talked to the school and they would consider allowing Jamie to travel with a support worker but couldn't guarantee that would be approved.

The NDIS would not allow funding in Jamie's plan for travel as they advised me it is the responsibility of the parent when the participant is a child. Not many parents have a 200kg chair setup they need to factor into the commute to school.

We ended up doing everything in our power to fund a van in line with NDIS requirements so that it could be modified to transport Jamie in his wheelchair. It was not easy and it was not cheap and it was not quick. Now we are able to take Jamie ourselves, with our daughter and be on time.⁵⁴

⁵⁴ This de-identified case study was provided via Children and Young People with Disability Australia (www.cyda.org.au) and we are grateful to children and their families who continue to share their experience and stories with us.

Example of Systemic Neglect: School Bus Modal Exemption

“Dedicated school buses - Whilst route bus services are included under the Transport Standards, dedicated school bus services are exempt from certain requirements for buses. This impacts students with disability and their families who may potentially face discriminatory outcomes in relation to access to school and other extracurricular activities or where a parallel service is used.” 55

The systemic neglect that permeates the school bus modal exemption begins with state and territory Transport Ministers excluding school buses from the yet to exist Transport Standards in 2002. That decision has never been reviewed and, as evidenced by Jamie’s story, the impact on children with disabilities and their families is both direct and indirect ways.

The direct impact lies in the logistical nightmare of a family with children with disability getting out of the family home in the morning so that parents get to work on time and children get to school on time.

The indirect impact lies in the narrowing of choice and control and the discriminatory dynamic this sets up to the point where children with disability may not be able to attend the same school as their siblings or participate in school and extra-curricular activities.

Put simply, children with disability miss out on the experience of catching the bus to school like so many of their classmates and thus are automatically distinguished as different and as ‘outside’ adding one more layer of barrier to participation in the school life.

The indirect impact of the school bus exemption extends beyond the child with a disability to impact on parents and other family members. There can be economic costs to families who have to pay for taxi’s to ferry their children to school or who choose employment that enables them to be available to transport their children with disability to and from school but which may not be in their chosen field or may only be part time.

Families in rural regional and remote areas of Australia may be particularly affected by a lack of access to school buses with transport times much greater meaning that children with disability may not be able to attend school or may have to live away from the family to attend school.

This direct and indirect neglectful impact on children with disability and their families stems from a 2002 decision taken by Transport Ministers prior to the existence of the Disability Transport Standards.

This decision, which has never been reviewed or re-evaluated, now permeates the systemic application of the Disability Transport standards to the point where the 2006 – 2012 Victorian Disability Action Plan did not include school buses as, they were ‘exempt from the Transport Standards’ and despite the Federal Court Ruling in the McGarrigle case, the NDIS does not believe it has a responsibility to fund access to public transport for children with disability to attend school as ‘this is the responsibility of parents to provide’.

⁵⁵ Australian Government Department of Infrastructure, Transport, Regional Development and Communications and Queensland Government - Stage 2 Areas of Reform of the Transport Standards
https://www.infrastructure.gov.au/sites/default/files/documents/54_opportunities_for_change.pdf

The 2002 decision to exempt school buses from the Disability Transport Standards needs to be immediately overturned so that school buses are no longer exempt from the Disability Transport Standards.

Example of Systemic Neglect: Preliminary Decision to Grant the ARA Further Exemptions

An example of these ongoing “temporary” exemptions can be seen in the recent decision by the AHRC to grant the Australasian Railways Association (ARA) yet another temporary exemption, bringing the total period of time they have been exempt to almost twenty years. In a letter to the AHRC regarding the recent ARA decision, Mr Geoff Trappett OAM, Chair of NITAN, wrote:

“The National Inclusive Transport Advocacy Network (NITAN) was formulated in 2018 with the express purpose of pursuing a disabled voice in the public discourse of inclusive transport related matters. None of which are as important as the granting of Disability Standards for Accessible Public Transport 2002 (DSAPT) exemptions.

It is in this vein that NITAN writes to make its immediate concerns known with respect to the preliminary decision to grant the Australasian Railway Association (ARA) further exemptions. A further more nuanced and technical submission will be submitted prior to the 10 January deadline as outlined in the preliminary decision.

We have seen in recent days the release of the third review of the DSAPT which holds findings and recommendations concerning both the issue of long-term granting of exemptions not being advantageous towards the outcomes of the wider DDA and that the disabled voice is largely missing from the public discourse on transport policy matters. It is NITANs view that this preliminary decision flies in the face of these findings.

Particular areas of concern with the content of the preliminary decision for NITAN include but are not limited to:

- NITAN notes the Australian Human Rights Commission (AHRC) has engaged ‘experts’ on this matter. We respectfully ask what governance arrangements were formulated by AHRC to weigh up the thoughts of this ‘expert’ and the thoughts of the disabled community? We ask this especially in light of the AHRC’s recent ‘meet the experts’ promotion regarding disability employment. NITAN is of the firm view that the balance of weight was unduly skewed towards the ARA and those that support them.
- NITAN is concerned with the credit given to the ARA for reducing their exemption application down from 30 to 5. NITAN holds great concern that the 25 exemptions not sought on this occasion have not been dealt with sufficiently.
- NITAN disagrees with the opinion of the ‘expert’ that the ARA had ‘taken reasonable measures in the previous exemption period to research, test, document and record attempts to rectify and overcome the issue of flange gaps’. NITAN appreciates that the approval of flange gap fillers is complex, with multiple players involved and safety should be a primary concern. However, we simply do not see that the ARA and its members have truly driven for an answer

to these questions through research as there has been no 'burning bridge' set for them to do so.

- NITAN disagrees strongly with the 'experts' opinion that assisted access should not extend to a rail employee pushing a wheelchair user up a ramp which is non-compliant. This opinion would call into question ANY assisted access provision and fundamentally change the concept as it sits in the DSAPT. The transfer of OH&S issues that come with transport providers providing non-compliant infrastructure from rail providers to the disabled persons staff is simply not a solution that the disabled community will accept.
- With regard to the lengthy deliberations on whether unjustifiable hardship should be enacted, NITAN respectfully points out that whilst temporary exemptions continue to be rolled over there is again no imperative on the providers part to push an unjustifiable hardship case. This sets up a situation where the disabled community and transport providers alike don't know the limits of where equivalent access stops ceases to be a viable option and unjustifiable hardship must be enacted. This clarity will only come from a strong denial of further exemptions.
- In relation to equivalent access, NITAN and the wider disabled community is well aware of the vagaries of how equivalent access is decided within the current DSAPT and associated AHRC guidelines. Equivalent access provisions must stand up to peer review for the disabled community to have confidence in them. At a minimum the ARA should be made to make their equivalent access case and how it was arrived upon (from engagement through development to final product) publicly available. Failure to do this will further reduce trust in the equivalent access process.

Given the matters raised above and the consequential continual lack of movement in the transport legislature space through 3 reviews NITAN has now been left with no option but to raise a submission to the Disability Royal Commission examining whether the processes government currently employs in developing its transport legislative instruments may constitute institutional neglect.

NITAN understands the pressures of matters relating to strong industry bodies such as the ARA and looks to continue a good working relationship with the AHRC. However, this relationship must be built on mutual respect. A respect that will be built from listening to the disabled voice and acting on it."

What Causes Neglect? Legislative Review Timelines

The utter lack of regard paid to making public transport accessible for people with disability in a timely manner is epitomised in the repeatedly delayed modernisation of the Transport Standards. As of now, it is anticipated that a modernised DSAPT will not be put before Parliament until late 2023. This is despite the fact that the urgent need for modernisation of the Transport Standards was raised in the last two five-yearly reviews.

From the second Review:

“The draft review report found that 10 years after the release of the Transport Standards, a number of parts of the legislation do not currently provide adequate or sufficient guidance. For the Transport Standards to meet the current and future needs of people with disability, amendments to the Transport Standards need to be considered. This work should be undertaken in close consultation with local government, industry, technical experts and the disability sector, and include research on the technical issues raised in this review, the development of options, and assessment of the impact of any proposed changes to the standards...”⁵⁶

And from the third Review:

Since the introduction of the Transport Standards in 2002, progress has been made in making public transport more accessible. However, this review found that cost, legal, legacy challenges, the prescriptive nature of the standards and other practical challenges exist, making the provision of accessible public transport services difficult in many instances. The calls for reform and modernisation identified in the 2012 Review are now critical to ensuring that people with disability have fair and equal access to transport so they can participate in their communities, gain meaningful employment and access the services they need.⁵⁷

Modernisation of the standards is even more pressing as the vast majority of issues identified through successive reviews have failed to be addressed and still remain relevant today.⁵⁸

While the Modernisation Process is now in progress, AFDO and NITAN remain concerned that it may suffer from a lack of resources and poor engagement with the sector. We would also note that, while the recently released Australian Disability Strategy includes an outcome measure around compliance, the DSAPT has no equivalent.

Per the website of the Department of Infrastructure, Transport, Regional Development and Communications, the National Accessible Transport Taskforce (The Taskforce) is responsible for the reform and modernisation of the Transport Standards. The Taskforce is jointly led by the Australian and Queensland Governments. Reforms are to be based on four key principles:

1. People with disability have a right to access public transport.
2. Accessibility is a service, not an exercise in compliance.
3. Solutions should meet the service needs of all stakeholders and be developed through co-design.
4. Reform should strive for certainty without sacrificing best functional outcome.⁵⁹

⁵⁶ Department of Infrastructure and Regional Development 2015, 125.

⁵⁷ Department of Infrastructure, Transport, Regional Development and Communications 2021a, 11.

⁵⁸ See Appendix 1 for the recommendations from previous reviews, many of which are repeated.

⁵⁹ Department of Infrastructure, Transport, Regional Development and Communications 2020.

While AFDO and NITAN agree with these principles in theory, given the Department's repeated failure to act over the past twenty years, we remain sceptical as to how the modernisation process will proceed and the end result and outcomes.

Further, we contend that the now decades-long delay in making crucial reforms to the standards constitutes yet another example of systemic institutional neglect of people with disability.

Conclusion

Accessible and inclusive public transport is essential for people with disability to live full, active, and dignified lives in their local communities.

The original intent of the Transport Standards was to enable access to public transport by establishing minimum accessibility requirements in line with the DDA. Through a now decades-long pattern of inaction and negligence on the part of the Australian Government, be it inadvertent or not, the Transport Standards have degraded into a worthless instrument that provides people with disability little recourse when faced with discrimination.

AFDO and NITAN submit that, in failing to implement successive review recommendations and in doing so address the problems with the Transport Standards, the Australian Government has perpetrated institutional neglect against people with disability.

This systemic neglect has, over the course of now several decades, had significant impact on people with disability, who have been almost completely disenfranchised from the Disability Transport Standards – both as a guide to the interaction of accessibility and public transport, and also as a complaints resolution mechanism.

This situation has served to erode the trust of people with disability in the Transport Standards themselves as a guide to improving accessibility; in the Australian Human Rights Commission (AHRC), who have coordination responsibility for the Standards and who administer the complaints mechanism; and in the Department of Infrastructure and Transport, who represent the Government's position in regard to the Transport Standards.

By highlighting the sheer extent of this institutional neglect and providing evidence that demonstrates the systemic nature of its impact on people with disability, AFDO and NITAN are drawing a line in the sand between what is and what is not acceptable.

People with disability are entitled to inclusive and accessible public transport, and this institutionalised neglect perpetrated through the Transport Standards cannot be allowed to continue.

Alongside our members, AFDO and NITAN call upon the Australian Government to recognise the neglect they have perpetrated against people with disability, and to ensure it is not allowed to continue through the current Modernisation process.

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Appendix 1: Recommendations from Previous Reviews of the DSAPT

First Review: The Allen Consulting Group (2009) *Review of the Disability Standards for Accessible Public Transport: Final Report*, October 2009, Report to the Minister for Infrastructure, Transport, Regional Development and Local Government and the Attorney-General.

Recommendation 1: Establish a national framework for Action Plan reporting and require annual reporting by each State and Territory government.

Recommendation 2: Request the ABS to include questions on public transport patronage in their Disability surveys.

Recommendation 3: A technical experts group be convened, with Standards Australia, to develop technical standards specifically suited to public transport conveyances and infrastructure. Once developed, these Standards should be referenced in the Transport Standards, and made available for public use.

Recommendation 4: Mode-specific guidelines be developed by modal sub-committees. These guidelines would be a recognised authoritative source for providers, which can be used during a complaints process.

Recommendation 5: A mobility labelling scheme be developed which identifies the weight of the aid and whether its dimensions fit within the dimensions for allocated spaces, boarding devices, access paths and manoeuvring areas on conveyances, as specified in the Transport Standards.

Recommendation 6: A best practice clearinghouse be established in a government agency or research body to collect and disseminate best practice solutions and ideas relating to accessible public transport

Recommendation 7: Commonwealth, State and Territory governments provide funding for projects in regional and rural regions where local governments are unable to resource upgrades of public transport infrastructure.

Recommendation 8: The Australian Human Rights Commission be tasked to provide greater support for representative complaints on behalf of people with disability, reducing the legal cost burden on individuals.

Recommendation 9: New governance arrangements be implemented to establish accountability for progressing recommendations from the five-year review. APTJC should have coordinating responsibility for new initiatives (including modal committees and the technical experts group) in partnership with APTNAC

Recommendation 10: The 2017 compliance milestone for tram conveyances and infrastructure be reduced from 90 per cent to 80 per cent to better reflect vehicle replacement cycles.

Recommendation 11: The taxi modal sub-committee be tasked with developing a staged implementation timeframe similar to that for other modes of transport, and an appropriate performance measure, to replace the 2007 milestone for WAT compliance.

Recommendation 12: Government commission research into the safety of passengers travelling in conveyances whilst seated in mobility aids (including scooters). This research should make recommendations around whether there is a need for an Australian Standard addressing this aspect of safety for mobility aids.

Recommendation 13: The Transport Standards be amended to require new community transport vehicles greater than 12 seat capacity to comply with the Transport Standards commencing in 2017, (with full compliance by 2032).

Recommendation 14: Phased application of dedicated school bus services to physical access requirements in the Transport Standards, commencing in 2029 and being fully required by 2044.

Recommendation 15: Air travel modal sub-committee (the Aviation Access Working Group) be tasked to develop guidance on the carriage of mobility aids on aircraft.

Second Review: Department of Infrastructure and Regional Development (2015) *Review of the Disability Standards for Accessible Public Transport 2002: Final Report*, July 2015, Commonwealth of Australia: Canberra.

Recommendation 1: Modernise the Transport Standards

That the Australian Government, jointly with state and territory governments, commence a process for updating and modernising the Transport Standards. This work should be undertaken in close consultation with local government, industry and the disability sector, and include research on the technical issues raised in this review, the development of options, and assessment of the impact of any proposed changes to the standards, with this work to be completed by 30 June 2017.

Recommendation 2: National reporting on progress against the Transport Standards

That the Australian Government, jointly with state and territory governments, establish a national framework for reporting on progress against the Transport Standards by

Recommendation 3: The complaints process

That the Australian Government considers the concerns raised about the complaints process.

Recommendation 4: Whole-of-journey accessibility

That the Australian Government, jointly with state, territory and local governments, develop accessibility guidelines for a whole-of-journey approach to public transport planning by 30 June 2016.

Recommendation 5: National motorised mobility aid labelling scheme

That the Australian Government, in collaboration with state and territory governments, develop and implement a national motorised mobility aid labelling scheme.

Recommendation 6: National wheelchair accessible taxi compliance milestones

That the Australian Government, jointly with industry, state and territory governments, develop consistent national compliance milestones and response times for wheelchair accessible taxis by 31 December 2016.

Recommendation 7: Review of Disability Access Facilitation Plan

That the Department of Infrastructure and Regional Development, in close consultation with the Aviation Access Forum, undertake a review of the Disability Access Facilitation Plan initiative by 30 June 2015, with the aim of improving the overall effectiveness and accessibility of the plans.

Third Review: Department of Infrastructure, Transport, Regional Development and Communications (2021a) *Third Review of the Disability Standards for Accessible Public Transport 2002 (Transport Standards)*, November 2021, Australian Government: Canberra.

Recommendation 1: Reform and modernise the Transport Standards

That the Australian Government, jointly with state and territory governments, continue the process of reforming and modernising the Transport Standards, ensuring focus on key areas highlighted by the disability community and industry.

Recommendation 2: Increase the involvement of the disability community

That the Australian Government work with the disability community to establish a national disability advisory body to involve people living with disability in decisions on the reform, modernisation and implementation of the Transport Standards.

Recommendation 3—Foster an environment for innovation

That the Australian Government seek to create an environment that fosters and supports innovation in improving disability access on all modes of public transport with a particular focus on technological advancements and emerging forms of transport.

Recommendation 4: Improve coordination and promotion of the Transport Standards

That the Australian Government improve the coordination and promotion of the Transport Standards at all levels of government.

Recommendation 5: Invest in accessible public transport

That the Australian Government identify opportunities to invest in accessible public transport or leverage existing initiatives, particularly in key areas of underinvestment such as our regional cities and outer suburban areas.

Recommendation 6: Improve the quality of accessibility data to identify problems and craft policy/legislative interventions

That the Australian Government work collaboratively with the states and territories to design a data quality framework for the collection of data and information that provides a more comprehensive understanding of the progress against the 2022 national public transport accessibility targets.

Recommendation 7: Champion accessibility beyond minimum standards, particularly in staff training and universal design

That the Australian Government, in recognition of how crucial disability awareness training for public transport personnel is in ensuring successful travel by people with disability on public transport, commence work to identify and highlight examples of Australian industry best practice. The Australian Government should seek to identify opportunities for investment in public transport that meet universal design principles.

Recommendation 8: Address uncertainty around the lawfulness of contravening a disability standard

That the Australian Government seek legal advice as to the interpretation of the Disability Discrimination Act 1992 (Cth) in relation to what substantiates that a breach of a disability standard is unlawful.

Recommendation 9: Increase support for individuals to make a complaint under the *Disability Discrimination Act 1992 (Cth)*

That the Australian Government ensure that the Australian Human Rights Commission is tasked to provide greater support for representative complaints on behalf of people with disability, reducing the legal cost and burden on individuals.