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Allen Consultancy Group
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Dear Sir/Madam,

RE: Response to Review of the Disability Standards for Accessible Public Transport 2002 – Draft Report

The Disability Council of NSW welcomes the opportunity to comment on Allen Consultancy Group's Draft Report on the Review of Disability Standards for Accessible Public Transport 2002. We particularly appreciate your decision to share for feedback a draft report. We believe such an iterative process will lead to a final report of greater depth and more nuanced complexity to the benefit of all stakeholders.

About the Disability Council of NSW

The Disability Council of NSW was established under the terms of Section 16 of the Community Welfare Act 1987 to advise Government in NSW on issues affecting people with disability and their families. We also give advice to the Australian Government on the effect of policy on people with disability living in NSW.

Council members are appointed by the NSW Governor on the recommendation of the Minister for Disability Services. Members are selected on the basis of their experience of disability and their understanding of issues, their knowledge of service delivery and their ability to reflect and advise on government policy. The majority of Council members are people with disability.

General observations

Our Council believes that since the introduction of the Transport Standards there has been improvement to the accessibility of public transport in most but not all modes. We repeat (for the record) observations made by our Executive Officer at the Sydney Public Hearing.

- In NSW we see marked improvements in the availability of accessible buses (particularly State-owned services), wheelchair accessible taxi services, accessible rail services (including "easy access" stations) and (to a lesser extent) ferry services.

- We are deeply concerned that access to air travel in Australia has become more restricted and restrictive in the five years since the DDA Disability Standards for Accessible Public Transport 2002 were approved by the Australian Parliament.
- There have been welcome improvements in information systems linked to public transport but we regret that it is necessary to observe that too much still needs to be done. People with vision impairment or hearing impairment have particularly reason to be justifiably aggrieved that information systems are not yet fully accessible.

We see a need for an integrated approach to ensuring non-discriminatory access to public transport. There needs to be a whole of government approach to transport and infrastructure planning. Our Council is of the opinion, therefore, that the Building Code of Australia, Australian Standards and the Disability Discrimination Act Transport Standards must be harmonised so that they are consistent with one another and be truly reflective access needs of people with disability with regard to transport.

The draft report

The Disability Council of NSW submits the following responses to the nine draft recommendations and stakeholder questions raised in the review.

Draft Recommendation 1

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

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

This group could subsequently be used to review technical issues as they arise, thus reducing the burden on the temporary exemptions process.

Council's Response:

Our Council applauds and welcomes this recommendation from Allen Consultancy Group. We are of the view that if the above recommendation is adopted and implemented, both existing and arising technical issues (as noted in the review) will be addressed and (we hope) rectified in favour of an inclusive solution.

However, our Council would like to be sure that the APTJC will work collectively and collaboratively on technical issues with the relevant stakeholders. Moreover, the APTJC should be accessible to stakeholders, consumers and or transport providers to lodge matters as they arise concerning technical issues.

Draft Recommendation 2

The exclusions for dedicated school buses be removed and school bus services be included in the transport standards on a delayed compliance timeline.

Council's Response:

The Disability Council of NSW is in agreement with this recommendation. However, our Council would like to make certain that the compliance requirements are clear so that all school bus service providers have a definite and reasonable timeline in which to comply.

Furthermore, it is our opinion that with more accessible bus services transporting students with disability to and from school a lesser burden will be borne by accessible taxis. We foresee, therefore, a subsequent reduction of inappropriate demand for accessible taxis during school peak hours.

Draft Recommendation 3

End the exemption of community transport services to include in the Transport Standards those community services whose purpose is to service people with disability or older people.

Council's Response:

The Council appreciates and strongly welcomes the proposed recommendation to amend the Transport Standards, so that it no longer exempts community services.

Our Council is of the opinion that it is imperative for a community service provider, whose purpose is to assist people who are aged and those with disability, to have a fully accessible, comfortable and safe transport service.

Draft Recommendation 4

Modal sub-committee be appointed by APTJC to develop guidelines under the Transport Standards by mode of public transport. These guidelines be developed in consultation with Accessible Public Transport National Advisory Committee (APTNAC).

Council's Response:

The Disability Council of NSW supports recommendation four. We agree that the guidelines should be as per mode of transport, as each mode of transport presents unique challenges with particular requirements and specifications.

However, consistency and transparency across the various modes of transport are extremely pertinent for the safe and independent travel experience of a person with disability. For example, using different warnings sound on different modes of transport or the same sound on different modes but with contrary meanings, can place a person with disability who relies on the sound at an increased risk of injury.

It is crucial, therefore, for the APTNAC to be mindful of consistency and transparency in the various modes of transport when proposing and developing guidelines.

Draft Recommendation 5

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

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

Council's Response:

Council agrees with the proposal that mobility aids should be labelled based on the specifications set by the Transport Standards. In saying this, however, the Council must be assured that the variety of features that differ from one mobility aid to another and the multiplicity of mobility aids, which cannot all be included in a labelling scheme, are not used by transport providers as an excuse to refuse carriage of some passengers with disability.

Draft Recommendation 6

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

Council's Response:

The Council welcomes and applauds Allen Consultancy Group on proposing the above recommendation that HREOC be granted with powers to refer breaches of the Transport Standard directly to the Federal Court.

The fundamental source for complaints resolution under the Disability Discrimination Act will continue to be that of an individual complainant seeking redress within the jurisdiction of the Federal Court (usually after the breakdown of HREOC brokered conciliation).

Council is of the opinion that the power proposed for HREOC recognises its unique position. We believe that the Commission is able to develop a 'big picture' or helicopter view of complaint submission and resolution across the nation. It has the opportunity and obligation to detect and assess systemic, industry and/or modal barriers that is otherwise difficult to identify by individual complainants. Our view is that HREOC would be empowered to refer matters to the Courts, usually with regard to precedent-setting criteria. It is expected that HREOC will use such a power sparingly and judiciously, mindful of the public interest and the public purse within a costs jurisdiction.

Draft Recommendation 7

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

Council's Response:

Council fully supports the implementation of the mandatory reporting framework. This would be an excellent tool to monitor the progress of the application of the Transport Standards.

Draft Recommendation 8

The Australian Bureau of Statistics (ABS) to include a question on public transport patronage in surveys of people with disability.

Council's Response:

Council is in full agreement with the above proposal. However, we strongly advise that the ABS questionnaire ask more than simply how many people with disability use public transport.

Our Council advises that ABS additionally explore whether the person with disability has difficulty fully accessing public transport. For example, a person who is blind or has low vision may be unable to obtain the information that is provided on the front of buses, informing commuters the route number and the destination it will reach.

While Council appreciates that it could be impractical for ABS to receive lengthy examples as to why people with disability do not have full access to public transport, we are of the view that this point needs to be raised in the ABS questionnaire in some capacity.

Council is of the strong view that in addition to knowing how many people with disability use public transport, knowing how many of them find it more or less accessible will indicate whether the Transport Standards are fully effective.

Draft Recommendation 9

APTAC and APTJC agree a new consultative framework with additional responsibilities for both committees.

Council's Response:

Our Council agrees entirely with the above framework. We believe that any new framework must include the non-tokenistic representation of credible, representative and democratically accountable organisations of people with disability.

Council's Response to Stakeholder Questions – Chapter 14

Question 1

Do you consider that this draft report has addressed the key issues (pages 157 – 170) of importance to the review? If not, what other issues do you consider are important to this review?

Council's Response:

Council is generally satisfied that the draft report has raised key issues which are important. However, we wish to raise the following important issues for consideration:

The issue of the DDA Accessible Transport Standards, the Australian Standards and the Building Code of Australia not being consistent and harmonising with each other has not been addressed.

The issues around requiring further research e.g. tactile surface indicators and directional markers were not properly acknowledged in the review. Research must be undertaken for inclusion in the Australian Standards. This will impact on the lives of individuals with physical and/or sensory disability.

Question 2

Are there options to address these problems that the review has not considered? If so, please provide details on these options and your assessment of their costs and benefits (including supporting evidence).

Council's Response:

Key issue 1:

The Disability Discrimination Act Accessible Public Transport Standards, the Australian Standards and the Building Code of Australia need to be harmonised. Costs will include Committee costs and consultant to undertake research and compile final report.

Key issue 4:

We agree that HREOC should be provided with the powers to instigate cases in the Federal Court. Notwithstanding the enactment of such a new power, there should be, in any event, an investigation into cost jurisdiction limitations within the Federal Court for the complainant and the respondent.

Question 3

Do you have evidence to either support or refute the assessment of options in Chapter 13 (Draft Recommendations) of this report? Evidence may include information on the relative magnitude of impacts between options.

Council's Response:

We have no further comments in addition to the responses set out above..

Question 4

Do you consider that implementing the draft recommendations will involve costs to government or non-government organisations? If so, please provide any estimates of these costs.

Council's Response:

It is correct that any potential new costs be considered by the review. But those costs **MUST** be weighed in the balance with the potential benefits to people with disability in particular and society in general. We are certain that the benefits outweigh and are worth the costs.

Recommendations 1, 4, 7 and 9 made in Chapter 13 will potentially have committee costs, however we believe that the costs associated will be minimal within the context of a national reform agenda.

Recommendation 2 and 3 - Accessible dedicated school bus services and community bus services may initially have high costs associated with the purchasing of a new accessible bus.

However, we believe the delayed timeline for compliance will assist with school/community bus services to develop budgetary costs in order to have the funds required to purchase the new bus.

Council suggest that Allen Consultancy Group explore the option of bus companies receiving a tax credit for the difference in cost of replacement of the old bus with the Australian Tax Office.

Furthermore, we remind this Review team that the defence of "unjustifiable hardship" remains constantly and permanently available to all transport operators. Given the presence of that safety net it is no longer reasonable to exempt school bus services from the provisions of the DDA.

Recommendation 5 - Labelling of mobility aids. There would be consultancy costs associated with research and compilation of submission for inclusion in Australian Standards. However, we believe Committee costs would be minimal.

Recommendation 6 – HREOC run the potential financial risk associated with losing a case in a cost jurisdiction such as the Federal Court. While the HREOC runs the potential risk of losing a case, Council believes HREOC will have the systemic information/evidence that will support their case, prior to referring a matter to the Federal Court.

Moreover, Council are of the view that it is unlikely that HREOC would misuse their power, as this would be detrimental to their own credibility and existence. We would expect HREOC to use such a power sparingly and judiciously, mindful of the public interest and the public purse within a costs jurisdiction.

Recommendation 8 – Some additional research analysis and reporting costs to ABS for new questions. Although Council believe that these would be minimal within the context

of a national reform agenda. ABS may have other requests from agencies for specific data to be collected in relation to disability issues.

Question 5

Do you consider that the criteria used in the qualitative assessment of options are appropriate? Do you have suggested changes to these criteria?

Council's Response:

Council agrees in principal with the qualitative assessment given the limited information that has been provided in the draft report.

Question 6

Do you consider that the proposed framework is the best approach to implementing the recommendation from this review? If not, how could it be improved?

Council's Response:

Council is in agreement with the proposed framework. However, the progress reports should be made public in order for stakeholders, service providers and service users to be satisfied that Transport Standards are being applied.

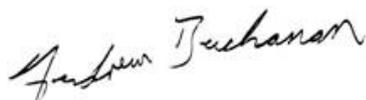
In summary, The Disability Council of NSW is satisfied with Allen Consultancy Group's draft report and look forward to the recommendations being adopted and implemented. We believe that in doing so, public transport will be inclusive and fully accessible to people with disability.

The Disability Council of NSW would be pleased to provide further comments or clarify any of the above recommendations should it be required.

Thank you again for providing us with the opportunity to critique and evaluate Allen Consultancy Group Draft Report of the Review of the Disability Standards for Accessible Public Transport.

Should you require further assistance please telephone Angela Hardman, Senior Policy officer on 02 9211 2264.

Yours sincerely



Andrew Buchanan
Chair
Disability Council of NSW