Justice and Equity Centre

Submission to the Reforms of the Disability Standards for Accessible Public Transport 2002 – Exposure Draft Consultation

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About the Justice and Equity Centre

The Justice and Equity Centre is a leading, independent law and policy centre. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we work with people and communities who are experiencing marginalisation or disadvantage.

The Centre tackles injustice and inequality through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

We actively collaborate and partner in our work and focus on finding practical solutions. We work across five focus areas:

Disability rights: challenging discrimination and making the NDIS fairer to ensure people with disability can participate equally in economic, social, cultural and political life.

Justice for First Nations people: challenging the systems that are causing ongoing harm to First Nations people, including through reforming the child protection system, tackling discriminatory policing and supporting truth-telling.

Homelessness: reducing homelessness and defending the rights of people experiencing homelessness through the Homeless Persons' Legal Service and StreetCare's lived experience advocacy.

Civil rights: defending the rights of people in prisons and detention, including asylum seekers, modernising legal protection against discrimination, raising the age of criminal responsibility to 14, advancing LGBTIQA+ equality and advocating for open and accountable government.

Energy and water justice: working for affordable and sustainable energy and water and promoting a just transition to a zero-carbon energy system.

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Recommendations

Recommendation 1: Mandatory requirements be reflected in language of the legislation

The Exposure Draft and Guidelines be reviewed and updated to ensure that provisions intended as mandatory requirements are framed using the term 'must,' not 'should'.

Recommendation 2 – Guidelines be clarified in relation to assistance animals

Clause 1.8 of the Guidelines omit the reference to a 'visually impaired person', such that it reads 'This means it is unlawful for a taxi driver to refuse transport to a person with disability because they have an assistance animal.'

Recommendation 3 – Definition of 'boarding devices' be clarified to include any device that enables a passenger to access a conveyance

The definition of 'boarding devices' should be clarified to include any device that enables a passenger to access a conveyance. If it is intended that aerobridges be considered 'infrastructure', rather than 'boarding devices', the definition of infrastructure should be amended.

Recommendation 4 – All access paths facilitate equal amenity, dignity and convenience for people with disability

Clause 2.2 of the Guidelines and section 2.2 of the Exposure Draft be amended to explicitly require operators and providers to implement access solutions that ensure equal amenity, dignity and convenience for passengers with disability.

Recommendation 5 – Definition of 'access path' be amended to clarify that TGSI requirements apply to paths running parallel to light rail tracks

The definition of 'access path' in section 1.8 of the Exposure Draft be amended to clarify that it extends to paths running parallel to light rail tracks in order to attract the application of the requirements in s 18.1 of the Exposure Draft. Further, the Exposure Draft and Guidelines be amended to mandate the use of directional TGSIs.

Recommendation 6 – The Guidelines provide more comprehensive guidance on accessible formats and methods of communication

Clause 27.1 of the Guidelines provide more comprehensive guidance on the formats and methods of communication that may be requested by people with disability.

Recommendation 7 – Section 27.8 apply to <u>all</u> disruptions, unreasonable delays and cancellations

Section 27.8 of the Exposure Draft be amended to clarify that the requirements extend to all disruptions, unreasonable delays and cancellations, to ensure all passengers, including those with disability, can make timely adjustments to their travel plans.

Recommendation 8 – Method of booking seats on 'booked services' be regulated and booked services provisions incorporate equivalent access

Part 28 of the Exposure Draft include:

- *a provision concerning the method of booking seats on 'booked services' to ensure booking systems do not require actions from a person with disability that exceed what is required of a person without a disability; and*
- *an explicit requirement for operators and providers to provide equivalent access in offering seating alternatives which meet passengers' disability needs.*

In addition, s 1.8 of the Exposure Draft include a definition of 'booked services'.

Recommendation 9 – Section 31A.1 be amended to mandate the development and delivery of staff training

Section 31A.1 of the Exposure Draft be amended to clarify that the development and delivery of staff training is a mandatory requirement under the DSAPT. Such training should not be limited to the 'prevention of harassment or victimisation of persons with a disability,' and must incorporate disability awareness and inclusion training.

Recommendation 10 – AHRC equivalent access guidelines be embedded within the DSAPT

Section 33.4 of the DSAPT and Clause 33 of the Guidelines be amended to incorporate the equivalent access standards set by the AHRC.

Recommendation 11 – Exposure Draft be updated to clarify a breach of the DSAPT is unlawful

Exposure Draft be amended to reflect what is now included in Clause 1.2(3) of the Guidelines, namely that a breach of the DSAPT is unlawful under the DDA.

Recommendation 12 – Target dates for compliance be expedited

The target dates for all projects and assets' compliance with the amended DSAPT be expedited without unreasonable further delay, having regard to the length of time for which operators and providers have been aware of the minimum accessibility standards first introduced in 2002.

Recommendation 13 – Shorthand references to Australian Standards be replaced with text of relevant provisions

The DSAPT be amended to replace shorthand references to the Australian Standards with the text of those provisions to ensure the DSAPT can be readily understood by the people it is intended to support.

1. Introduction

The Justice and Equity Centre ('JEC', formerly the Public Interest Advocacy Centre), welcomes the opportunity to make this submission to the Department of Infrastructure, Transport, Regional Development, Communications and the Arts' Exposure Draft of the Disability Standards for Accessible Public Transport Amendment 2025 ('Exposure Draft') and Disability Standards for Accessible Public Transport Guidelines 2025 ('Guidelines').

The JEC has extensive experience in disability discrimination litigation and public policy development related to public transport. We work in consultation with disability advocates and Disability Representative Organisations ('DROs'). We are also a member of the Steering Committee and a co-design partner with People with Disability Australia and the Australian Federation of Disability Organisations on the co-design of proposed Aviation Disability Standards.

We have made submissions to previous reviews of the *Disability Standards for Accessible Public Transport 2002* (Cth) ('DSAPT'), and to the Department in relation to both the Stage 1 and Stage 2 Consultation Regulation Impact Statements ('RIS').[1] While the Exposure Draft reflects some positive developments toward greater inclusion of people with disability in public transport services, many of the concerns and recommendations raised in our previous submissions have not been addressed (such as the establishment of a national monitoring and compliance framework), will only be subject to *non-regulatory* measures (such as reporting and equivalent access),[2] or remain out of scope pending further review (such as rideshare services and dedicated school buses).[3]

Without clear regulation on these issues, the DSAPT continues to fall short of achieving its stated objective of 'removing discrimination against people with disability from public transport services.'[4] The regulation of rideshare services is essential to ensure people with disability have equal access to point-to-point passenger transport. The continued absence of a mandatory

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1 PIAC, Submission to the Review of the Disability Standards for Accessible Public Transport 2002, Flight Closed: Report on the experiences of People with Disabilities in Domestic Airline Travel in Australia (August 2007) <https://www.piac.asn.au/wp-content/uploads/07.08.24-DSAPT_Review_Sub.pdf>; PIAC, Submission to the Minister for Infrastructure and Transport, Get on Board! 2012 Review of the Disability Standards for Accessible Public Transport (31 May 2013) <https://piac.asn.au/wpcontent/uploads/13.05.31_-_get_on_board_2012_review_of_the_dsapt.pdf>; PIAC, Submission to the Department of Infrastructure, Transport, Regional Development and Communications, Third Review of the Disability Standards for Accessible Public Transport 2002 (12 December 2018); PIAC, Submission to the Department of Infrastructure, Transport, Regional Development and Communications, Reform of the Disability Standards for Accessible Public Transport: Consultation Regulation Impact Statement (22 April 2021) < https://piac.asn.au/wp-content/uploads/2021/04/21.04.22-PIAC-Submission-to-DSAPT-CRIS.pdf> (**JEC 2021 Submission**); PIAC, Submission to the Department of Infrastructure, Transport, Regional Development and Communications, Submission to the Reforms of the Disability Standards for Accessible Public Transport 2022 – Stage 2 Consultation Regulation Impact Statement (9 August 2022) (**JEC 2022 Submission**); PIAC, Submission to 2022 Review of the Transport Standards (30 June 2023) <https://jec.org.au/resources/submission-to-the-fourth-review-of-the-transport-standards/> (**JEC 2023 Submission**).

2 Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts, Reform of the Disability Standards for Accessible Public Transport 2002 – Summary of decision (March 2024) <https://www.infrastructure.gov.au/sites/default/files/documents/reform-of-the-disability-standards-for-accessible-public-transport-2002-summary-of-decision-march2024_0.pdf> (**Reforms Decision**).

3 Ibid.

4 Guidelines, [1.2].

reporting or compliance monitoring framework means there is still no accountability or enforcement mechanism under the DSAPT.

In this submission, we address the following reforms proposed by the Exposure Draft and Guidelines and make recommendations for their improvement:

- Part 1 of the Guidelines – scope of the DSAPT (Div 1.2);
- definitions (Part 1 of the Exposure Draft);
- access paths (Part 2 of the Exposure Draft);
- Tactile Ground Surface Indicators ('TGSIs') (Part 18 of the Exposure Draft);
- information (Parts 17 and 27 of the Exposure Draft);
- booked services (Part 28 of the Exposure Draft);
- staff training (Part 31A of the Exposure Draft);
- equivalent access;
- compliance and enforcement (Part 33 of the Exposure Draft);
- implementation (Part 35 of the Exposure Draft); and
- use of Australian Standards.

As an overarching observation, we recommend the Exposure Draft and Guidelines be carefully reviewed and updated to ensure clarity and enforceability of new requirements. In particular, provisions intended as mandatory requirements should be framed using the term 'must,' not 'should.' We have identified several amendments that purport to introduce new obligations but use language which falls short of requiring compliance.[5] These inconsistencies risk undermining the intent of the regulatory changes and create ambiguity for operators and providers.

Recommendation 1 – Mandatory requirements be reflected in language of the legislation

The Exposure Draft and Guidelines be reviewed and updated to ensure that provisions intended as mandatory requirements are framed using the term 'must,' not 'should'.

2. Guidelines Part 1 – Scope of the DSAPT (Div 1.2)

Clause 1.8 of the Guidelines seeks to clarify that where issues are not expressly covered by the DSAPT, the *Disability Discrimination Act 1992* (Cth) ('DDA') applies, for example, in relation to assistance animals. We welcome improved guidance on the interaction of the DDA and the DSAPT. However, we recommend amending the example given in Clause 1.8 to avoid creating the unintended impression that assistance animals under the DDA are limited to guide dogs or seeing eye dogs. The definition in s 9(2) of the DDA is broader and encompasses any animal trained to assist a person with disability. We recommend the example in Clause 1.8 omit the reference to a 'visually impaired person', such that it reads '*This means it is unlawful for a taxi driver to refuse transport to a ~~visually impaired~~ person with disability because they have an assistance animal*.'

[5] See, for example, Clause 18.1 of the Guidelines (discussed at Section 5 below) and Exposure Draft s 31A (discussed at Section 8 below).

Recommendation 2 – Guidelines be clarified in relation to assistance animals

Clause 1.8 of the Guidelines omit the reference to a 'visually impaired person', such that it reads 'This means it is unlawful for a taxi driver to refuse transport to a person with disability because they have an assistance animal.'

3. Definitions (Part 1)

Part 8.1 of the existing *Guidelines (No. 3)* states that 'boarding devices include hoists, gangways, ramps, scissor lifts, aerobridges or any other means of getting a passenger on or off a conveyance.' While we agree the definition of boarding devices should be moved from the Guidelines to the DSAPT, we are concerned the definition has been narrowed to 'a device *designed* to facilitate access to and from a conveyance, and includes hoists, removable gangways, boarding ramps and scissor lifts, but does *not* include aerobridges (emphasis added).'

First, if interpreted strictly, the requirement that the device be *designed* to facilitate access to and from a conveyance may inadvertently exclude a passenger's disability aid (eg a manual or electric wheelchair) or an operator-provided mobility device from being recognised as a boarding device even though it assists them to access a conveyance. Part 8.3(2) of the DSAPT states 'an available boarding device must be deployed if a passenger requests its use.' Passengers should not be denied the use of personal disability aids if that assists them to access a conveyance. Accordingly, the definition of 'boarding devices' should include any device that enables a passenger to access a conveyance; not just those *designed* to facilitate access.

Second, although the definition is inclusive, it should expressly include aisle chairs which are solely designed to facilitate access to and from aircraft where wheelchairs do not fit in the aisle of the aircraft. This would clarify that aisle chairs must be available for people with disability to board, disembark and use on an aircraft if required by the person.

Third, it is unclear why aerobridges have now been expressly removed from the definition of boarding device given they are specifically designed to facilitate access to and from aircraft. This does not align with Part 8.2 of the DSAPT which requires a boarding device to be available at any accessible entrance to a conveyance that has a vertical rise or gap, or horizontal gap that exceeds specified measurements.

Given the purpose of an aerobridge is to enable passengers to board and disembark aircraft due to the distance between the terminal and the aircraft, aerobridges should not be excluded from the definition of boarding device. If it is intended that aerobridges instead be considered 'infrastructure' rather than 'boarding devices', the definition of infrastructure should be amended as aerobridges may not meet the current definition of infrastructure in s 1.18(2) of the DSAPT.

Recommendation 3 – Definition of 'boarding devices' be clarified to include any device that enables a passenger to access a conveyance

The definition of 'boarding devices' should be clarified to include any device that enables a passenger to access a conveyance. If it is intended that aerobridges be considered 'infrastructure', rather than 'boarding devices', the definition of infrastructure should be amended .

4. Access paths (Part 2)

The amended Guidelines provide guidance on 'continuous accessibility' in s 2.2 of the Exposure Draft. They clarify that, when considering 'appropriate locations'[6] for the identification of access paths, operators and providers should consider factors such as whether a person requiring a ramp at an entrance would need to 'travel a significantly further distance to use the entrance than for people without disability.'[7]

In our view, this aspect of the Guidelines, and s 2.2 of the Exposure Draft,[8] should explicitly direct operators and providers to implement access solutions that ensure equal amenity, dignity and convenience for passengers with disability. This obligation should not be limited to minimising additional travel distance, but should encompass the overall experience of accessing transport premises and infrastructure.[9]

Recommendation 4 – All access paths facilitate equal amenity, dignity and convenience for people with disability

Clause 2.2 of the Guidelines and section 2.2 of the Exposure Draft be amended to explicitly require operators and providers to implement access solutions that ensure equal amenity, dignity and convenience for passengers with disability.

5. Tactile Ground Surface Indicators (TGSIs) (Part 18)

Section 18.1 of the Exposure Draft requires 'warning TGSIs' to be installed on *access paths* for any of the prescribed purposes, applying to all premises and infrastructure. Under the amended definition, '*access paths*' are paths that permit 'independent travel for all passengers *to, into or within* public transport premises, infrastructure or conveyances.'[10] The Guidelines also now include guidance on the purpose and use of 'directional' TGSIs.[11]

We support an amended definition of 'access path' which captures paths facilitating travel ***to*** and ***into*** transport premises, infrastructure or conveyances. We are aware of concerns as to whether paths running parallel to light rail tracks along, for example, George Street in the Sydney CBD, and similarly in Paramatta, which are not part of boarding platforms, fall within the definition of 'access path' and are therefore subject to the requirements in s 18.1. While we consider the proposed new definition assists, we recommend further amending the definition of 'access path' in s 1.8 to make clear that it captures paths which run parallel to light rail tracks. Further, to ensure adequate coverage of the DSAPT, we recommend that the Guidelines explicitly incorporate this as an example of where warning TGSIs should be used.

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6 Guidelines, [2.2(1)].
7 Guidelines, [2.2(4)].
8 Exposure Draft s 2.2.
9 See recent example of public buildings presenting accessibility barriers, with wheelchair users being relegated to rear entrances for ramp access <https://www.abc.net.au/news/2025-10-22/advocate-says-disability-ministers-office-is-inaccessible/105919688>.
10 Exposure Draft s 1.8.
11 Guidelines, [18.1].

Unlike warning TGSIs, the DSAPT does not currently mandate the use of directional TGSIs to assist passengers with, for example, vision impairments to navigate public transport settings. While the amended Guidelines suggest they should be used for safety, to provide directional cues and signal points of entry / exit,[12] these provisions are framed as recommendations rather than requirements. We note in this regard the Stage 1 RIS Decision states that content would be added to the DSAPT 'to define the *requirement* for the use of directional TGSIs, adopting the requirements of AS1428.4.1:2009.'[13] We therefore recommend the use of the word 'should' in Clauses 18.1(1) and 18.1(3) of the Guidelines be changed to 'must.' For consistency, we also recommend that s 18 of the Exposure Draft be amended to include a requirement for the use of directional TGSIs.

We otherwise welcome the amendments to Part 18 of the Exposure Draft which update TGSI style and dimension requirements in line with 2009 Australian Standards.

Recommendation 5 – Definition of 'access path' be amended to clarify that TGSI requirements apply to paths running parallel to light rail tracks

The definition of 'access path' in section 1.8 of the Exposure Draft be amended to clarify that it extends to paths running parallel to light rail tracks in order to attract the application of the requirements in s 18.1 of the Exposure Draft. Further, the Exposure Draft and Guidelines be amended to mandate the use of directional TGSIs.

6. Information (Parts 17 and 27)

6.1 Accessible information

The Exposure Draft introduces minimum standards for the presentation and visibility of digital information display screens,[14] and requires that announcements via hearing augmentation systems accompany displays inside conveyances with multiple stops.[15] These changes are welcome. However, the DSAPT still do not mandate the installation of such displays across all conveyances, premises and infrastructure. Digital displays are critical for ensuring timely, accurate and inclusive communication for passengers with a range of disability.

Given s 27.1 of the DSAPT provides that 'general information about transport services provided by an operator or provider must be accessible to all passengers,' we recommend that mandating the use of digital display screens be given serious consideration during the next statutory review in 2027.

We understand a working group will be established to 'consider the feasibility of installing hearing augmentation systems in public transport operating environments' and 'emerging digital solutions.'[16] While this is a welcome step, it is a non-regulatory measure that will not create any

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12 Guidelines, [18.1].
13 See: https://www.infrastructure.gov.au/sites/default/files/documents/stage-1-decision-ris-reform-of-the-disability-standards-for-accessible-public-transport-2002.pdf, page 138 (emphasis added).
14 Exposure Draft s 17.5.
15 Exposure Draft s 27.6.
16 Reforms Decision (n 2) 6.

enforceable requirement for the use of hearing augmentation systems. We recommend that such requirements be incorporated following the next statutory review in 2027.

The Exposure Draft also introduces requirements for operators and providers to make information concerning transport services available in braille and other 'infrequently requested' formats.[17] It includes a general requirement that any information and communication technology intended for public use be accessible to people with disability.[18]

The Final Report into the Disability Royal Commission said:[19]

> People with disability have a right to access information and communications on an equal basis with others. Information and communications are accessible if people with disability can use and understand them in a way that suits their needs.

Accessible communication means providing information in the customer's preferred format, whether via website, app, print, or other methods, without disadvantaging them based on their choice. While the Guidelines suggest operators might expect to receive requests for standard or large print, Braille, audio, touch-tone telephone, teletypewriter, digital files, SMS / text, email, Auslan, audio-visual material and online,[20] they should also explicitly include other forms such as Easy English, Easy Read, and alternative languages (other than English). This would ensure that as many forms and methods as possible are readily available upon request. For example, communication boards using pictures/icons and text can assist people who have speech impediments, are non-verbal or use languages other than English.

Providing detailed guidance on the forms and methods of communication that may be requested is preferred, particularly given operators and providers are required to comply in a 'timely manner',[21] subject to the medium of the information and their capacity.[22] Without clearer obligations, the current framework fails to guarantee that all people with disability will have equal access to public transport information.

Recommendation 6 – The Guidelines provide more comprehensive guidance on accessible formats and methods of communication

Clause 27.1 of the Guidelines provide more comprehensive guidance on the formats and methods of communication that may be requested by people with disability.

6.2 Information concerning service disruptions

The Exposure Draft inserts a requirement to inform passengers about stops on a service with multiple stops,[23] and to communicate planned service disruptions.[24] We welcome these changes,

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17 Exposure Draft ss 27.2, 27.3 and 27.5.
18 Exposure Draft s 27.10.
19 *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* (Final Report, September 2023) vol 6, 39.
20 Guidelines, [27.1(1)].
21 Exposure Draft s 27.2(2).
22 Guidelines, [27.1(3)].
23 Exposure Draft s 27.6.
24 Exposure Draft s 27.8.

including the requirements to provide as much notice as can be reasonably provided in the circumstances, and where this is not possible, to provide direct assistance.[25] We also welcome the proposed minimum accessibility standards for websites and mobile platforms.[26] These amendments are essential to minimising adverse impacts of service disruptions on people with disability.[27]

However, this regulation of service disruption communications falls short because it only applies to a '*planned* disruption'. We note there is already an appropriate exception for emergency situations,[28] and that many disruptions will not be planned but people should still be informed.

Moreover, we are concerned the Exposure Draft does not mandate real-time communication of service disruptions. Instead, 'real time communication' is relegated to non-regulatory guidance 'to encourage operators and providers to improve real time communication.'[29] The provision of real-time information about disruptions, delays and cancellations is critical for safety and passenger planning, particularly given punctuality targets for some modes of transport are frequently not met.[30]

We recommend that s 27.8 be amended to explicitly include all disruptions, unreasonable delays and cancellations. This would ensure all passengers, including those with disability, are able to make timely adjustments to their travel plans.

Recommendation 7 – Section 27.8 apply to <u>all</u> disruptions, unreasonable delays and cancellations

Section 27.8 of the Exposure Draft be amended to clarify that the requirements extend to all disruptions, unreasonable delays and cancellations, to ensure all passengers, including those with disability, can make timely adjustments to their travel plans.

7. Booked services (Part 28)

Part 28 of the Exposure Draft introduces requirements to ensure passengers with disability can book seats in areas of conveyances (aircraft, coaches, ferries, trains and dial-a-ride services) that are appropriate for their travel needs, unless such seats have already been booked.[31] The Guidelines state that passengers should 'identify their particular seating needs at the time of booking so they can book an appropriate seat for their needs.'[32]

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25 Exposure Draft s 27.8(2).
26 Exposure Draft s 27.7.
27 See, for example, JEC 2021 Submission (n 1) [2.3];
28 Exposure Draft s 27.8(3).
29 Reforms Decision (n 2) 5.
30 See, for example, Angus Thomson and Nigel Gladstone, 'They can barely handle the everyday rush: The charts showing how your Sydney train line performs' (23 September 2025) <https://www.smh.com.au/national/nsw/they-can-barely-handle-the-everyday-rush-the-charts-showing-how-your-sydney-train-line-performs-20250923-p5mxcs.html>.
31 Exposure Draft s 28.4(3).
32 Guidelines, [28.1(1)].

While we welcome amendments which seek to ensure passengers with disability have choice of seating when using booked services, these provisions do not address the accessibility of booking *methods* themselves. Passengers requiring specific seating should not face additional barriers, such as being required to make bookings by telephone, when other passengers are able to book online.

We recommend a provision similar to s 25.2(1) be introduced in Part 28, namely that a booking system must not require actions from a person with disability that exceed what is required of a person without disability.

In addition, the Guidelines provide that, 'while operators must accommodate passengers to the extent possible, it may not always be possible to fully accommodate the need. For example, if a person with similar requirements had already booked the seat, that person would have priority.'[33] The Guidelines do not however contain guidance as to what operators should do in such circumstances. We recommend this aspect of the Guidelines, and the corresponding provision of the DSAPT,[34] explicitly require operators and providers to provide equivalent access in offering seating alternatives which meet passengers' disability needs.[35] Operators and providers should be directed to implement solutions that ensure equal amenity, dignity and convenience for passengers with disability. In some cases, operators and providers may need to offer available seats in higher class services at the same price as originally intended booking to ensure accessibility.[36]

Further, we recommend a definition of 'booked services' be included in s 1.8. This will provide clarity for passengers, operators and providers regarding the scope of services to which these requirements apply.

Recommendation 8 – Method of booking seats on 'booked services' be regulated and booked services provisions incorporate equivalent access

Part 28 of the Exposure Draft include:

- ***a provision concerning the method of booking seats on 'booked services' to ensure booking systems do not require actions from a person with disability that exceed what is required of a person without a disability; and***
- ***an explicit requirement for operators and providers to provide equivalent access in offering seating alternatives which meet passengers' disability needs.***

In addition, s 1.8 of the Exposure Draft include a definition of 'booked services'.

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33 Guidelines, [28.1(2)].
34 Exposure Draft s 28.4.
35 See, for example, requirement in s 25.2(4) of the Exposure Draft that alternative fare payment methods comply with equivalent access principles.
36 For example, wheelchair user, Anwen Handmer, was forced to purchase a business class ticket at her own expense because Qantas could not accommodate her accessibility needs in economy: <https://www.abc.net.au/news/2024-04-04/qantas-appalling-treatment-artist-with-disability/103653426>.

8. Staff training (Part 31A)

The Exposure Draft introduces a requirement for transport operators and providers to 'develop and implement strategies and programs to prevent harassment or victimisation of a person with a disability', which *may* include training staff.[37] Contrary to what is suggested in the Reforms Decision,[38] this does not create a clear *obligation* on operators and providers to develop and deliver training to all staff involved in the provision of public transport services.

Consistent with our previous submission, we strongly advocate for mandatory training for all staff.[39] Properly trained staff are essential to ensuring that people with disability are supported, respected and not subjected to harm when using public transport. Given the prevalence of mistreatment of people with disability and systemic discrimination against people with disability in public transport settings, mandatory training is a critical safeguard. As noted in the Consultation RIS, implementing such training would bring Australian practice into line with comparable jurisdictions such as Canada and the United Kingdom.[40] It is insufficient for the Exposure Draft to suggest training is an optional measure for meeting obligations under the DSAPT.

While the Guidelines outline the nature of training that may be provided to ensure staff 'understand their obligations, to support safe and dignified travel for people with disability,'[41] such guidance will have limited impact unless training is made an explicit requirement.

We recommend s 31A.1 be amended to require the development and delivery of training to all staff involved in public transport services. Additionally, we recommend the Guidelines provide more detailed direction on the content of such training. The purpose of training should extend beyond the 'prevention of harassment or victimisation of persons with a disability' to incorporate disability awareness and inclusion training.

The proposed reference in the Guidelines to '*if appropriate*, strategies and programs should incorporate practical elements to equip staff with skills to perform their duties safely',[42] is vague and lacks enforceability. We recommend the inclusion of express guidance requiring staff who provide manual assistance to passengers with disability (during, for example, boarding or alighting), or who handle disability aids, to undergo annual in-person and hands-on training. This should include competency assessments or certification exams to require staff to demonstrate their knowledge. Such measures would reduce injuries to passengers and staff, and minimise the mishandling of disability aids, thereby lowering associated costs and risks. This is critical for staff and passenger safety, and should not be considered optional.

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37 Exposure Draft s 31A.1.
38 Reforms Decision (n 2) 3.
39 JEC 2021 Submission (n 1) [2.1].
40 Department of Infrastructure, Transport, Regional Developmetn and Communications, Reform of the Disability Standards for Accessible Public Transport: Consultation Regulation Impact Statement (February 2021), [4.1] <https://www.infrastructure.gov.au/sites/default/files/migrated/transport/disabilities/have-your-say/files/dsapt-reform-consultation-ris.pdf>.
41 Guidelines, [31A(1)].
42 Guidelines, [31A(1)(b)] (emphasis added).

Further, the DSAPT should mandate the delivery and frequency of training, subject to consultation with the disability community and DROs. For example, training should be delivered by disability-led organisations, and staff should be required to undergo training annually.[43] While the Guidelines encourage consultation and co-design with people with disability or DROs,[44] this is currently not a requirement. We recommend the word 'should' in paragraph 31A(1)(c) of the Guidelines be replaced with 'must.'

Finally, there are currently no mechanisms to monitor training records, or enforce compliance with s 31A. As outlined in our previous submission, mandatory training must be supported by robust monitoring, as well as a process to support reporting of poor staff interaction with people with disability.[45] This will enable meaningful evaluation of training effectiveness and ensure continuous improvement. As such, we urge the Government to mandate compliance reporting as part of the next statutory review process in 2027.

Recommendation 9 – Section 31A.1 be amended to mandate the development and delivery of staff training

Section 31A.1 of the Exposure Draft be amended to clarify that the development and delivery of staff training is a mandatory requirement under the DSAPT. Such training should not be limited to the 'prevention of harassment or victimisation of persons with a disability,' and must incorporate disability awareness and inclusion training.

9. Equivalent access

A non-regulatory approach will be taken to equivalent access under the DSAPT, specifically the development of a 'web-based centralised repository of equivalent access solutions,' supported by guidance, to assist operators and providers in implementing equivalent access measures.[46]

We welcome the proposed amendments to Clause 33.1 of the Guidelines, which clarify that 'non-discriminatory access to public transport may require some adjustments by operators and providers to existing methods of service delivery'[47] and that ensuring 'equivalent access' may involve providing 'an alternative solution' that provides 'a greater level of access.'[48]

We reiterate the importance of people with disability playing a central role in shaping equivalent access outcomes. Section 33.4 of the DSAPT requires operators and providers to consult with passengers with disability who use the service, or with organisations representing people with disability, about any proposal for equivalent access. The current Guidelines also encourage 'consultation between operators, providers, all levels of government and the community to ensure

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43 Section 31A(1)(d) of the Exposure Draft suggests 'refresher sessions' be held on a 'routine basis,' however this is not framed as a mandatory requirement and, without stipulating a precise timeframe, lacks certainty as to the obligations on operators and providers.

44 Guidelines, [31A(1)(c)].

45 JEC 2021 Submission (n 1) [2.1].

46 Reforms Decision (n 2) 5.

47 Guidelines, [33.1(1)].

48 Guidelines, [33.1(2)].

that accessible public transport initiatives will reflect local and regional needs'.[49] However, the current framework does not clearly define what constitutes meaningful and genuine consultation.

To address this gap, we reiterate our previous recommendation for the Australian Human Rights Commission's ('AHRC') equivalent access guidelines, which provide much needed clarification on consultation standards, be embedded within the DSAPT.[50] The AHRC Guidelines emphasise the importance of proactive communication and collaboration between operators and providers, through consultation with passengers with disability, DROs and other stakeholders. In doing so, the Guidelines advocate for long-term access solutions developed through co-design, rather than reactive measures driven by complaints or litigation.[51] To ensure best practice, we recommend that s 33 of the DSAPT explicitly reference the AHRC Guidelines to:

- inform operators and providers of how and when consultation should occur;
- clarify what constitutes 'meaningful', 'appropriate' and 'accessible' consultation; and
- promote consistency and accountability in consultation processes and outcomes.[52]

Similarly, the proposed non-regulatory repository of equivalent access solutions and accompanying guidance should be developed in accordance with the AHRC standards for consultation, to ensure engagement with the disability community is meaningful.

Recommendation 10 – AHRC equivalent access guidelines be embedded within the DSAPT

Section 33.4 of the DSAPT and Clause 33 of the Guidelines be amended to incorporate the equivalent access standards set by the AHRC.

10. Compliance and enforcement (Part 33)

10.1 Reporting

Since the introduction of the DSAPT over two decades ago, there has been no national mechanism to monitor or assess compliance by operators and providers with their obligations. As a result, many target dates for compliance have been missed,[53] and the DSAPT have not been effective in removing discrimination against people with disability. This lack of oversight also raises concerns about the Australian Government's compliance with its obligations under Article 33 of the Convention on the Rights of Persons with Disabilities ('CRPD').

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49 *Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3)*, [36.1].

50 JEC 2022 Submission (n 1) [5]; Australian Human Rights Commission, *Guidelines: Equivalent Access under the Disability Standards for Accessible Public Transport 2002* (Cth) (**AHRC Guidelines**): https://humanrights.gov.au/__data/assets/file/0017/46313/Ahrc_equivalent_access_guidelines_2020.pdf.

51 AHRC Guidelines, section 5.4.

52 Ibid.

53 See, for example, Alison Xiao, 'Australia misses 20-year public transport accessibility target as many train and tram networks fail people with disabilities', *ABC News* (online, 16 January 2023) <https://www.abc.net.au/news/2023-01-16/australia-misses-20-year-public-transport-accessibility-target/101858532>.

The JEC has consistently advocated for robust compliance monitoring, the establishment of a national reporting framework, and publication of Action Plans that demonstrate how transport providers intend to satisfy the DSAPT.[54] While the a compliance reporting framework is being developed, its voluntary nature is inadequate to ensure accountability.

We are disappointed that reporting on compliance with the DSAPT will be dealt with through non-regulatory action, primarily standalone guidance which only 'encourages' operators and providers to develop and publish plans outlining their progress towards compliance.[55] While the Guidelines currently state that operators and providers *may* submit action plans to the AHRC,[56] this is insufficient to guarantee compliance and accountability.

As recommended in our earlier submissions, transport operators and providers should be required to report on their compliance with the DSAPT.[57] Mandatory reporting would enhance transparency and accountability across the sector, empower advocacy by the disability community, and support all levels of government in fulfilling their commitments under Australia's Disability Strategy and the CRPD. Without such requirements, there is no governance risk for non-compliance, and limited incentive for operators and providers to improve accessibility. While the opportunity to introduce mandatory compliance reporting has passed for this Exposure Draft, we strongly recommend it be included following the next statutory review.

10.2 Consequences for lack of compliance and the shortcomings of an individual complaints-driven process

While the DSAPT requires 'compliance to the maximum extent possible',[58] there remains a fundamental gap in enforcement mechanisms. Despite repeated concerns raised in our previous submissions about the inadequacy of relying on individuals to enforce compliance with the DSAPT, 'the primary means' of ensuring public transport services implement and adhere to the DSAPT continues to be by lodging complaints to the AHRC.[59] It is concerning to see that enforcement remains an individual, complaints-driven process. We reiterate our position that the responsibility to enforce rights under the DSAPT should not fall solely to the people they are intended to protect.

Neither the Exposure Draft nor the Guidelines contemplate proactive monitoring by the AHRC.[60] Although operators and providers may indicate their intention to comply by submitting an action plan to the AHRC,[61] there is no requirement to do so. This voluntary approach fails to establish a meaningful accountability framework. To ensure the DSAPT are effectively implemented and remain fit for purpose, we reiterate our recommendations for a proactive enforcement framework which should include:

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54 JEC 2021 Submission (n 1) [3.1]-[3.3].
55 Reforms Decision (n 2) 5.
56 Guidelines, [33.14].
57 JEC 2021 Submission (n 1) [3.1]; JEC 2022 Submission (n 1) [4.2]; JEC 2023 Submission (n 1) [2.1].
58 Guidelines, [33.7(1)].
59 Guidelines, [33.10].
60 See our earlier recommendations regarding the need for independent monitoring by the AHRC: JEC 2021 Submission (n 1) [3.2]; JEC 2022 Submission (n 1) [4.3]; JEC 2023 Submission (n 1) [3.3.2].
61 Guidelines, [33.14].

- establishing an expert advisory group to provide ongoing governance and ensure the DSAPT evolve in line with community expectations; and
- a formal oversight role for the AHRC including powers to monitor and enforce compliance, including regular reviews of DSAPT compliance.

The above recommendations are consistent with the AHRC's *Free & Equal* Position Paper 2021, which stated, '[c]onsideration should…be given to the Commission having an oversight role with regulatory powers to enforce compliance' of the disability standards under the DDA.[62] We recommend these proposals be given serious consideration during the 2027 statutory review.

We welcome the amendments to the Guidelines clarifying that a breach of the DSAPT is unlawful.[63] However, as per our previous submission, we recommend this be explicitly stated in the DSAPT itself to ensure legal clarity.[64]

Recommendation 11 – Exposure Draft be updated to clarify a breach of the DSAPT is unlawful

Exposure Draft be amended to reflect what is now included in Clause 1.2(3) of the Guidelines, namely that a breach of the DSAPT is unlawful under the DDA.

11. Implementation (Part 35)

The Exposure Draft's proposed timeframes for implementation and compliance with the DSAPT raise several concerns. Under the proposed approach, projects that have reached the 'approach to market' stage (ie tender stage for the procurement of conveyances), or the 'approval' stage (ie construction, substantial refurbishment or alteration of premises or infrastructure), at the time the amended DSAPT commence will *not* be required to meet the new standards applicable to new or 'substantially refurbished' assets.[65] Instead, they will be required to comply with existing DSAPT requirements. The new standards apply if those assets are 'substantially refurbished' at a later date.[66] The same approach applies to projects under construction at the time of commencement.[67]

This framework does not provide any certainty as to when approved or in-progress projects will become compliant with the amended DSAPT (if at all).[68] Continued non-compliance of assets does not eliminate discrimination against people with disability, and undermines efforts to achieve full inclusion in public transport services. Further, the lack of clarity around what constitutes 'substantial refurbishment or alteration' is unlikely to provide operators and providers with the certainty needed to meet their obligations.

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62 Australian Human Rights Commission, *Free & Equal: A reform agenda for federal discrimination laws* (Final Report, December 2021) 141.
63 Guidelines, [1.2(3)].
64 JEC 2023 Submission (n 1) [3.1]; JEC 2021 Submission (n 1) [4.1].
65 Guidelines, [35.1(2)].
66 Guidelines, [35.1(2)].
67 Guidelines, [35.2(1)].
68 JEC 2022 Submission (n 1) [8].

For existing assets (excluding trains and trams), the Exposure Draft proposes that, unless otherwise stated in Part 35, the non-amended DSAPT will continue to apply.[69] Transitional periods of 5 or 10 years are prescribed for compliance with specific provisions.[70] For existing trains and trams, the Exposure Draft preserves the existing timeframe for compliance, being 31 December 2032.[71]

We reiterate our previous recommendation that target dates for compliance and implementation be expedited, without unreasonable further delay.[72] Operators and providers have now had 23 years to prepare for these *minimum* accessibility standards. While we welcome the inclusion of a schedule specifying compliance dates for individual sections of the DSAPT, the proposed timeframes are excessively long and risk further delaying the implementation of accessibility requirements.

Recommendation 12 – Target dates for compliance be expedited

The target dates for all projects and assets' compliance with the amended DSAPT be expedited without unreasonable further delay, having regard to the length of time for which operators and providers have been aware of the minimum accessibility standards first introduced in 2002.

12. Use of Australian Standards

Contrary to the JEC's previous recommendations, the Exposure Draft retains shorthand references to Australian Standards, rather than incorporating the full text of those Standards into the DSAPT. While we acknowledge that non-commercial access to Australian Standards is now available via Standards Australia's 'Reader Room,'[73] this platform requires users to register an account and navigate within the platform to locate the relevant Standard, which may present accessibility barriers for people with disability.

To ensure the DSAPT, designed to promote inclusion, is readily understandable and accessible to the people it is intended to support, we repeat our recommendation that shorthand references to Australian Standards be removed and replaced with the text of the relevant Standard. Alternatively, the DSAPT should annex relevant provisions of the Australian Standards to ensure that people can access them directly and without unnecessary obstacle.[74]

Recommendation 13 – Shorthand references to Australian Standards be replaced with text of relevant provisions

The DSAPT be amended to replace shorthand references to the Australian Standards with the text of those provisions to ensure the DSAPT can be readily understood by the people it is intended to support.

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69 Exposure Draft s 35.5; Guidelines, [35.4].
70 Exposure Draft Div 35.2; Guidelines, [35.5].
71 Exposure Draft s 35.2; Guidelines, [35.3].
72 JEC 2022 Submission (n 1) [8].
73 See here: https://readerroom.standards.org.au/getStarted.
74 JEC 2023 Submission (n 1) [2.3].