



# Queensland Advocacy Incorporated

Our mission is to promote, protect and defend, through advocacy, the fundamental needs and rights and lives of the most vulnerable people with disability in Queensland.

*Systems and Legal Advocacy for vulnerable people with Disability*

14 March 2018

Email: legal@humanrights.gov.au

Dear Commissioners

Please accept the following submission in relation to the Human Rights Commission's preliminary decision on the joint application by the State of Queensland (acting through the Department of Transport and Main Roads) and Queensland Rail on 15/12/2017 for temporary exemptions under the Disability Standards for Accessible Public Transport 2002 (Cth) and The *Disability Discrimination Act 1992* (Cth).

Yours sincerely

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QAI endorses the objectives, and promotes the principles, of the Convention on the Rights of Persons with Disabilities.

Patron: His Excellency The Honorable Paul de Jersey AC

## **Submission**

Queensland Advocacy Incorporated commends the Human Rights Commission for its preliminary decision to refuse temporary exemptions in relation to Queensland's New Generation Rollingstock exemption application. These are new trains. The State of Queensland negligently procured rolling-stock that is not compliant with the Disability Standards for Accessible Public Transport ('DSAPT') and did so without first consulting with people with disabilities. The TMR Accessibility Reference Group was approached and engaged about the trains only after they were commissioned and the design was finalized.

The Human Rights Commission Guidelines state that a 'significant reason not to grant an exemption' is if it would allow conduct that is 'inconsistent with or would undermine the objects of the DDA'. Exemptions for newly built vehicles are contrary to the objects and principles of the *Disability Discrimination Act 1992* (Cth) ('DDA').<sup>1</sup> In particular, they are contrary to the elimination of discrimination 'as far as possible'. It is also contrary to the DSAPT to grant exemptions to conveyances that were commissioned, designed and built many years after the DSAPT was established in 2002.

Exemptions for new vehicles would set an unfortunate precedent in relation to the Standards, giving transport providers permission to build inaccessible and non-compliant vehicles. Exemptions in relation to new conveyances also undermine the efforts of transport providers that act in good faith and endeavour to comply with the Standards.

Voluntary compliance lies at the heart of the Standards, given the weakness of the sanctions, penalties or remedies for non-compliance in either the Standards or the DDA. Allowing this provider to cut corners only rewards incompetence, and, more broadly, threatens to undermine achievements so far in transport access and future advances that the Standards underwrite. To grant exemptions for new conveyances also undercuts the National Disability Strategy's plan for "Inclusive and Accessible Communities" and the Queensland All Abilities Plan.

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<sup>1</sup> section 3.