



ARA Submission

Equal Access Report- ARA
Temporary Exemptions
Assessment

The Australian Human Rights Commission

30 July 2021

ABN 64 217 302 489

The ARA

The Australasian Railway Association (**ARA**) is a not-for-profit member-based association that represents rail throughout Australia and New Zealand. Our members include rail operators, track owners and managers, manufacturers, construction companies and other firms contributing to the rail sector. We contribute to the development of industry and government policies in an effort to ensure Australia's passenger and freight transport systems are well represented and will continue to provide improved services for Australia's growing population.

The ARA and its members thank the Australian Human Rights Commission (**AHRC**) for the opportunity to provide a submission.

This submission has been developed in consultation with ARA member organisations.

Any questions regarding this submission should be directed to Simon Bourke, General Manager – Policy and Government Relations via sbourke@ara.net.au.

Specific Comments

The ARA has reviewed the report prepared by Equal Access dated 1 July 2021 (**Equal Access Report**) in relation to the ARA's application to the AHRC dated 31 July 2020 (**Application**) for temporary exemptions to the *Disability Standards for Accessible Public Transport 2002 (DSAPT)* and the Disability (Access to Premises – Buildings) Standards 2010 and sought feedback from its members across the rail industry.

The rail industry is committed to accessibility. Accessible rail can increase inclusion in our communities and provide independence for people with disability, thereby ensuring people with disability are able to participate in all areas of life. As a mode of public transport, the rail industry recognises that its purpose is to provide transport for society and therefore, the rail network and its services need to be accessible to all. Recognising that providing accessible rail is much more than complying with the DSAPT, ARA members approach accessibility in a holistic manner.

It is worth noting that the temporary exemptions sought in the Application are a significantly reduced list of the temporary exemptions previously granted by the AHRC in its decision given on 1 October 2015 (**2015 Decision**). The ARA made a consolidated application for temporary exemptions to the AHRC to minimise the burden of multiple requests from its members. All ARA members fully complied with the conditions to the temporary conditions granted in the 2015 Decision, which focused on annual reporting to outline actions undertaken to improve access and demonstrate the progress achieved in relation to each exemption granted during each reporting period. A retrospective analysis of the progress made since 2015, taking into account AHRC's feedback on ARA member reports, indicates that the framework of exemptions and conditions previously established had effectively worked to ensure stable progress towards improving

accessibility in all relevant areas. This is attested by the significantly reduced number of new exemptions being sought.

The ARA and its members welcome the technical assessment made by the Equal Access Report that recommends the AHRC grant the four temporary exemptions sought by the ARA.

The ARA notes that the proposed conditions for the four temporary exemptions have been modified to those provided in the 2015 Decision. The ARA would invite an extension of the conditions provided in the 2015 Decision as this gives a consistent and transparent mechanism to monitor improvement since 2015.

The following outlines some specific comments on the report's recommended conditions for consideration by the AHRC.

1. DSAPT Part 2.1 'Access paths – Unhindered passage' and Premises Standards Part H2.2(1) 'Accessways'

ARA Exemption sought

For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on rail premises or rail infrastructure.

Equal Access Report Recommended Conditions

For a period of five years, flange gaps of up to 75mm are permitted where a level crossing forms part of an access path on existing rail premises or rail infrastructure subject to the following conditions:

- the member concerned provides a strategy to the ARA and Commission within 12 months of this exemption to demonstrate how the member intends to improve the flange gaps within each access path within a level crossing by:
 - eliminating the flange gaps with a suitable product; OR
 - reducing the flange gaps to a maximum horizontal width of 55mm; OR
 - phase out by grade separation.
- Include proposed timeframes for actioning.
- the member concerned conducts an audit of existing crossings against the DSAPT provisions and provides a written report to the ARA and the Commission for each jurisdiction within 24 months outlining the findings, proposed actions for remedy and proposed timeframes, taking into consideration the DSAPT target dates for full compliance by Dec 2022.
- following this audit, the member concerned provides reports every 12 months identifying each station where a level crossing forms part of an access path, proposed actions for remedy and proposed timeframes for compliance.
- The ARA member makes these reports available on their website and provides a copy to the Commission.

ARA Comments

In relation to the proposed condition to provide a 'strategy', the ARA notes that there are no suitable products yet approved by the Office of the National Rail Safety Regulator to remove or minimise a flange gap. Further grade separation to remove level crossings require significant funding and planning. If the AHRC deems the condition requiring a strategy be granted, the ARA members note that 12-months would be an insufficient timeframe to develop an informed or funded strategy. A more realistic timeframe to provide a meaningful strategy, given constraints with internal approvals process and obtaining project funding within the funding cycle, would be 24 to 36 months from a decision being made by the AHRC.

The proposed condition requiring ARA members to audit existing crossings against the DSAPT provisions extends beyond the exemption being sought, which only relates to DSAPT Part 2.1 and Premises Standards Part H2.2(1). The ARA recommends the condition be amended to: "...against the DSAPT Part 2.1 and Premises Standards Part H2.2(1).".

Since the 2015 Decision, ARA members provided evidence of research into possible solutions for eliminating the flange gap, as well as progress towards grade separation. Members have also made progress on both short term and long term solutions, including upgrades of crossings, grade separation and trialling of gap filler products. These have been reported in the reports provided annually to the AHRC.

On this basis, the previous conditions have shown to be effective in motivating industry to address the issue of flange gaps. The ARA recommends the conditions provided in the 2015 Decision for this exemption be extended, instead of those provided in the Equal Access Report.

2. DSAPT Part 2.6 'Access paths — conveyances'

Exemption sought

For a period of five years, an access path is only required at a single door of existing rail conveyances.

Equal Access Report Recommended Conditions

For a period of five years, an access path is only required at a single door rather than all doors of existing rail conveyances, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or
 - to ensure access to unique facilities, including an accessible bathroom (where provided); or
 - to ensure a passenger can both board and alight the rail conveyance; and
 - the ARA member utilising this exemption installs signage in close proximity to the primary boarding point to notify passengers with mobility disability how access can be achieved to an alternative entry point, with staff assistance if required. The ARA

- member reports to the Commission within 12 months of the exemption on the progress and annually until all stations affected have signage erected.
- the ARA member utilising this exemption provides a management plan to the Commission within 3 months of this exemption detailing:
 - the management controls set out by the ARA member on how staff manage passengers with disability who require an alternative boarding point.
 - the methods used to educate passengers on the availability of the alternative boarding point and staff assistance.
 - the ARA makes the plan available to the public through its website and provides a copy to the Commission.
 - the ARA member provides de-identified reports to the Commission on complaints made to it or an external agency (of which the ARA member is aware) alleging a failure in the provision of equivalent access. The report should identify each station that was the subject of the complaint.

ARA Comments

The ARA notes that the proposed condition of installing signs at every primary boarding point location to notify passengers has not been raised in previous consultations carried out by ARA members, nor is it mentioned in the Equal Access Report's technical assessment or conclusion. The ARA recommends the proposed condition be changed to reflect that boarding procedures and the use of alternative boarding points is communicated through customer information channels. ARA members have many different channels to inform passengers and consider it best practice to consult with their users to apply solutions that are tailored to their network and cater well for the specific needs and preferences of their customers. Mandating the use of signage as opposed to relying on localised engagement to understand passenger needs may bring about less optimal outcomes for passengers.

While ARA members utilising this exemption would be able to provide a management plan, the proposed timeframe of three months would be difficult to meet, due to internal processes. The ARA recommends six to 12 months would be more appropriate to ensure all elements are covered under the proposed reporting condition.

3. DSAPT Part 6.4 'Slope of external boarding ramps'

ARA Exemption sought

For a period of five years, where the relationship between the platform and rail carriage means that an external boarding ramp can only be provided at a gradient greater than 1 in 8 and less than 1 in 4, ARA members are not required to provide staff assistance to customers to ascend or descend the ramp.

ARA Equal Access Report Recommended Conditions

For a period of five years, for existing rail stock, where the relationship between the platform and rail carriage means that an external board ramp can only be provided at a gradient greater than 1 in

8 and less than 1 in 4, ARA members are not required to provide staff assistance in ascending or descending the ramp.

This exemption is granted on the condition that:

- A strategy is developed by each ARA member and provided to the Commission within 12 months of this exemption on how platforms can be improved at nominated boarding points on a case-by-case basis.
- Include timeframes for action.
- the ARA member reports to the Commission annually thereafter on the progress to demonstrate how the boarding ramp gradients are being improved at each station.
- The ARA member makes these reports available on their website and provides a copy to the Commission.
- the ARA member utilising this exemption ensures that service users can obtain information about restricted access at any particular rail station or infrastructure;
 - at the location of the restriction, and
 - via the ARA members' websites and downloadable fact sheets, and
 - in person at Travel Centres where they exist, and
 - via a telephone call to the Customer Contact Centre where available, and
 - via any other forms of communication provided by the ARA member (such as a mobile app).
- any ARA member utilising this exemption provides free travel for any assistant accompanying a person with disability who requires assistance to use the ramps between 1 in 8 and 1 in 4.

ARA Comments

The ARA notes the proposed conditions relating to DSAPT Part 6.4 is connected to DSAPT Part 2.6.

The proposed timeframe of 12 months to develop a strategy on how platforms can be improved at nominated boarding points would be difficult to meet for all stations across ARA members' networks, given the numbers of stations involved and obtaining the necessary project funding within the funding cycle. The ARA recommends 24 to 36 months would be more realistic and allow for a comprehensive strategy to be developed.

4. DSAPT Part 8.2 'Boarding – When boarding devices must be provided'

ARA Exemption sought

For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance.

Equal Access Report Recommended Conditions

For a period of five years, a manual or power assisted boarding device is only required at a single door rather than all doors of an existing rail conveyances, subject to the following conditions:

- equivalent access is provided at an alternative door of the rail conveyance in the following circumstances:
 - if an allocated space is not available; or
 - to ensure access to unique facilities; including an accessible bathroom (where provided) or
 - to ensure a passenger can both board and alight the rail conveyance.
- any ARA member utilising the exemption provides a report to the Commission and ARA within 12 months of this decision on measures taken to ensure that staff and passengers are adequately informed of both the doors of rail conveyances at which boarding devices are available and the equivalent access measures available.
- that the report be updated every 12 months, and
- any ARA member concerned ensures that service users can obtain information about specified boarding points at any particular rail station or infrastructure:
 - at any platform at which there is a specified boarding point
 - via the ARA members' websites and downloadable fact sheets, and
 - in person at Travel Centres where they exist, and
 - via a telephone call to the Customer Contact Centre where available, and
 - via any other forms of communication provided by the ARA member (such as a mobile app).
- that ARA make the report available on their website and provide a copy to the Commission.
- the ARA member provides de-identified reports to the Commission on complaints made to it or an external agency (of which the ARA member is aware) alleging a failure in the provision of equivalent access. The report should identify the station that was the subject of the complaint.

ARA Comments

The ARA notes the proposed conditions relating to DSAPT Part 8.2 is connected to DSAPT Part 2.6.

The ARA has no objection to any of the proposed conditions in the Equal Access Report for this exemption.