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Director
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Dear Director,

Re: 2022 Review of the Disability Standards for Accessible Public Transport 2002 (Transport Standards)

Thank you for the opportunity to provide input to the 2022 Review of the Disability Standards for Accessible Public Transport 2002 (Transport Standards). We note this consultation is occurring because of the statutory requirement for a Review to be conducted every five years and that the focus on the current national reform process has now largely superseded these regular reviews. Yet, given the failure over 20 years to deliver in full on the promises of the Transport Standards to ensure all public transport services and infrastructure were made fully accessible by 31 December 2022 (except train and tram conveyances, which have until 2032 to fully comply), we believe this is an important opportunity for the Department to comprehensively evaluate progress toward the targets and to identify why the delivery fell short of the commitments. It is essential these lessons inform the reform process to ensure the new iteration of the Transport Standards succeed in delivering on the promises as soon as possible.

Given that accessible transport is fundamental for Australians living with disability to access essential services and participate in the social, cultural, and economic lives of our communities, we believe the current reform process must reinvigorate the Transport Standards and be accompanied by much-needed investment and genuine accountability and reporting mechanisms. Indeed, under Article 9 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), Australia is obligated to ensure that people living with disability can access transport services “on an equal basis with others”. Furthermore, in *Australia’s Disability Strategy 2021-2031*, federal, state, territory, and local governments have recognised the value of accessible transport services to both individual and community lives and committed to the goal of ensuring that “transport systems are accessible for the whole community” (priority number 5). The outcomes of this reform process will have a significant bearing on whether these obligations are fulfilled. The Transport Standards ‘modernisation’ process must raise the bar, not water down requirements to artificially achieve higher levels of compliance without delivering genuine accessibility outcomes.

JFA Purple Orange has had a longstanding interest in public transport in South Australia and has regularly engaged with the disability community on this topic over many years. A wide range of insights obtained from those with lived experience in locations across the state inform this submission. In particular, we conducted transport surveys in August-September 2019 and July 2022¹ to understand how people living with disability use public transport services, the improvements that have occurred over time, and the barriers that continue to be present. Although survey respondents indicated there have been improvements in South Australia since the formulation of the Transport Standards in 2002, our July 2022 transport survey revealed that only 11 per cent of respondents rated the current accessibility levels of public transport as good or very good. This compares to 41 per cent who rated it as adequate, 38 per cent as poor, and 10 per cent as very poor.

Below, we focus on the overarching themes that we believe should direct the current five-yearly Review of the Transport Standards and the national reform process that will determine the updated requirements.

Comprehensive audit of current accessibility levels

The Transport Standards were established in 2002 with a reasonable and realistic timetable for change over a period of 20 years – or, in the case of train and tram conveyances, 30 years. It is extremely regrettable that after 20 years the promises laid out in these Standards have not been achieved. However, the 20-year milestone is an opportune time to reflect on progress and evaluate why this did not occur. We urge the Department to undertake a comprehensive audit of progress and shortcomings of all relevant transport services and infrastructure across all Australian jurisdictions utilising the expertise of people living with disability who use these services. This will not only provide evidence in assessing the impact of the Standards to date but set an important baseline against which outcomes from the current reform process can be measured in the years to come. This will be an essential element of ensuring that the updated Standards succeed where the current approach has failed.

Recommendation 1: As part of this Review, the Department should conduct a comprehensive audit of current accessibility levels across all states and territories against all aspects of the Transport Standards to document the extent of progress achieved so far and to establish a verifiable baseline against which to measure the success of the forthcoming reforms over future years. This audit should engage Australians living with disability in key roles to ensure it measures genuine accessibility rather than mere compliance with current formal requirements that may be inadequate to achieve full accessibility.

Adopt a co-design approach for the reform process

It is critical that people living with disability are heard and centrally involved in shaping decisions about the content and implementation of the updated Transport Standards. We regularly hear from people living with disability that they are excluded from mainstream public transport because their access needs are overlooked and they

¹ We received 87 responses to our August-September 2019 survey and 29 responses in July 2022.

continue to encounter disrespectful treatment by transport workers. Additionally, as noted above, one of the problems with the current Transport Standards is that there is often a gap between what is formally required of governments and operators for accessibility and the actual access needs of people living with disability, which will only be avoided in the updated version if opportunities for input from the disability community are maximised.

This gap has been highlighted in relation to Adelaide Metro buses. In its 2021-22 Annual Report, the South Australian Department of Infrastructure and Transport stated that “our bus fleet is now 100 per cent accessible” (p.3 and repeated on p.37). However, in our July 2022 survey, which asked respondents to consider their experiences since 1 April 2022, 40 per cent of respondents indicated that buses are still not accessible for their needs. In other words, based on fulfilling what is formally required, the South Australian Department describes its buses as “100 per cent accessible”. However, this is misleading because the statement is really about compliance with current Transport Standards rather than the authentic experience of passengers who need accessibility features, such as active restraints for their wheelchairs, in order to travel safely and comfortably on public buses.

For these reasons, we strongly believe that a co-design approach involving people living with a diverse range of disabilities should be established to continue the reform process and to determine the final form of the updated Transport Standards. We acknowledge the work of the National Accessible Transport Steering Committee and the National Accessible Transport Taskforce in developing the updates, however we believe that there would be many benefits gained from utilising co-design for the remainder of this reform process to ensure that there is maximum alignment between the new requirements and the full breadth of needs within the disability community. It is also more likely to deliver outcomes consistent with Australia’s declared ambitions for an accessible inclusive society, including our obligations under the UNCRPD. For your interest, we attach our Guide to Co-Design to this submission or access online [here](#).

Recommendation 2: Governments should establish a co-design process involving people living with a diverse range of disabilities to continue the reform process and determine the final form of the updated Transport Standards to ensure that they are fit for purpose and avoid any gaps between the formal requirements and lived experiences.

Implement a new approach of regulatory accountability and independent oversight

Given that the Transport Standards have been in place for 20 years now, the results of our transport surveys indicate that progress toward achieving equal access has been far too slow. As mentioned above, in our July 2022 transport survey only 11 per cent of respondents regarded the accessibility of public transport in South Australia as good or very good. The current complaints-based model, whereby the only accountability mechanism to drive compliance with the Transport Standards is individual members of the public making complaints to the Australian Human Rights Commission (AHRC) about specific instances of discrimination, has failed to produce significant change.

For this reason, JFA Purple Orange argues that stronger regulatory, oversight, and enforcement approaches are required. Broadly, we believe that the regulatory options outlined in the RIS are more likely to produce increased accessibility than the non-regulatory guidance-based alternatives or continuing with the status quo. Respondents to our July 2022 transport survey agreed, with 88 per cent supporting independent regulation of the Transport Standards. Further, given the extensive involvement of governments in providing public transport, we believe that an independent statutory authority should be assigned responsibility for overseeing compliance with the Transport Standards on an ongoing basis to avoid actual or perceived conflicts of interest arising.

Recommendation 3: Implementation of the Transport Standards should be supported by a robust comprehensive independent regulatory and enforcement framework implemented by an independent statutory authority, in addition to the option for a person living with disability to pursue a complaint about an individual experience of discrimination through the Australian Human Rights Commission (AHRC).

Implement public reporting and independent auditing of compliance

Currently, there are no mechanisms to evaluate compliance with, or the effectiveness of, the Transport Standards, either in relation to specific transport modes or to whole transport networks. There has been no ongoing monitoring or progress in the form of either self-reporting or independent auditing. The most recent Australian Infrastructure Audit conducted in 2019 by Infrastructure Australia concluded regarding the Transport Standards: “Despite inconsistent data, available information shows it is unlikely that services and infrastructure in most jurisdictions will be fully compliant with legislated requirements within the mandated timeframe ... Progress against the Standards is possibly even worse than the data suggest” (p.320). Certainly, there is no doubt that the situation in many rural, regional, and remote locations is considerably worse than in metropolitan areas.

In order to provide a full picture of progress toward the full implementation of the Transport Standards and to ensure transparency, stronger reporting requirements are essential. We believe that the updated Transport Standards should require governments and operators to lodge regular comprehensive reports about their ongoing compliance and their future implementation plans with an independent statutory authority and that these reports should be publicly available via an online database. In addition, the independent statutory authority should conduct independent audits to test the content of these self-assessments and reports both randomly and to target any suspected reporting issues. The independent statutory authority should be required to publish comprehensive national reviews of compliance based on these reports and audits across all governments and operators at least every three years. These requirements can help inform the five-yearly reviews of the Transport Standards that should continue with a time limit on delivering reports to prevent the delays that have occurred in the past.

Recommendation 4: The updated Transport Standards should include a robust reporting and auditing framework that includes regular self-reporting requirements for governments and operators, independent audits by a statutory authority, and comprehensive national progress reports on compliance.

Ensure comprehensive sector coverage

All forms of public transport should be subject to the Transport Standards with new forms and modes added as they emerge. We believe ridesourcing / rideshare operators should be subject to the same requirements as taxis. One way to achieve this would be by replacing the term “taxi” with a broader descriptor, such as “point to point transport service”, that is defined in such a way that it covers current and emerging forms of this mode of transport. For example, as “any service in a vehicle with 12 seats or less (including the driver) that can take customers on the route they choose, at the time that suits them, for a fare” per the South Australian Department of Infrastructure and Transport.²

Likewise, we strongly believe that dedicated school buses should be subject to the Transport Standards in full with a clear compliance schedule and deadline. The UNCRPD applies to all people regardless of age and the rights of children to accessible transport should not continue to be excluded from parts of the Transport Standards.

Recommendation 5: The Transport Standards should cover all forms of public transport with new forms and modes added as they emerge. It should be made clear that ridesourcing / rideshare services and dedicated school buses are subject to the Transport Standards in full.

Keep the compliance schedule on-track

When the Transport Standards were introduced in 2002, they were supposed to ensure that all public transport networks and associated infrastructure, except for the trains and trams, would be fully accessible by the end of 2022. JFA Purple Orange believes that the 20-year transition timeline was reasonable and deliverable, but many of the promised outcomes were not achieved. While some welcome progress has been made, we share the disability community’s disappointment at the failure of governments to deliver what was promised.

One of the most important and impactful decisions that will be made in the reform process will regard the schedule of timeframes for implementation. Given that the original schedule allowed for a total of 30 years and that 20 of those years have already passed, we are deeply concerned that this reform process is contemplating new timeframes of up to 20 years, which would take the implementation period to 40 years in total. In effect, such an outcome would reward governments and operators for dragging out implementation and failing to adhere to the requirement for genuine five-yearly reviews and updates that would have ensured that the Transport Standards remained fit for purpose to deliver accessibility while keeping pace with new innovations in the transport industry. Indeed, the need for this major reform process is, in and of itself, a reflection of the failure of governments and operators to take the Transport Standards and associated review and update processes seriously over the past two decades. As noted above, we believe that this inattention and inaction are a consequence of the absence of robust oversight and accountability mechanisms in the existing Transport Standards.

² See https://dit.sa.gov.au/point_to_point_transport/p2p.

Therefore, together with strong independent oversight and accountability mechanisms, it is essential that the Transport Standards have a robust compliance schedule to deliver genuinely accessible public transport as a matter of urgency. We strongly believe that the original final date of 2032 should remain in place for all existing and updated requirements for all legacy and new infrastructure, premises, and conveyances / vehicles and that governments and operators should be required to make up the time already lost to inattention and inaction.

Recommendation 6: The updated Transport Standards should include a robust compliance schedule that mandates full compliance with all existing and updated standards by all legacy and new infrastructure, premises, and conveyances / vehicles no later than 2032. The compliance schedule should include progressive compliance dates over the next 10 years to ensure governments and operators can be kept on track by an independent statutory authority to deliver this outcome no later than 2032.

Include a sunset clause for 'equivalent access' alternatives to equal access compliance

While we appreciate that the 'equivalent access' principle does not allow alternatives involving segregated services, these options still fall short of equal access for all. Equal access for everyone should be the clear unambiguous ambition of the Transport Standards in order for Australia to genuinely fulfil its obligations under the UNCRPD. Therefore, we strongly believe that 'equivalent access' alternatives should only be permitted by the Transport Standards as interim measures to enable access in the short-term. In order to avoid an over-reliance on these alternatives, this should be clearly signalled in the updated Transport Standards. Without this signal, it is likely that 'equivalent access' alternatives will become entrenched as a feature in public transport systems in Australia. To incentivise solutions that deliver genuinely equal access for all, we believe that the Transport Standards should include a sunset clause for 'equivalent access' alternatives to be regarded as compliant.

Recommendation 7: The updated Transport Standards should include a sunset clause for 'equivalent access' alternatives to be deemed compliant.

Thank you again for the opportunity to provide feedback to this important Review. We are available to discuss the issues raised in this submission further. To arrange this, please contact Mr Robbi Williams, CEO of JFA Purple Orange, on [REDACTED] or robbiw@purpleorange.org.au.

Yours sincerely

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