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# Response to Australian Railways Association exemption application (2020)



Submitted to The Australian Human Rights Commission

September 2020

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### About Queenslanders with Disability Network (QDN)

Queenslanders with Disability Network (QDN) is an organisation of, for, and with people with disability. The organisation’s motto is “nothing about us without us”. QDN operates a statewide network of over 2,000 members and supporters who provide information, feedback, and views from a consumer perspective to inform systemic disability policy and disability advocacy. This submission is informed by the lived experience of our members and supporters, as well as the policy experience of our staff.

### Multiple ‘temporary’ exemptions

QDN is opposed to the Australian Human Rights Commission (AHRC) granting the Australasian Rail Association (ARA) another Temporary Exemptions from the Disability Standards for Accessible Public Transport 2002 (DSAPT).

Three of the current sections of DSAPT have been under ‘temporary’ exemption since January 2007[[1]](#footnote-2)&[[2]](#footnote-3). The fourth was granted in November 2007. For people with disability, ‘temporary’ for these four sections appears to be taking on a state of permanency. Appendix 1 of this document details the exemptions granted in 2007 by the then AHRC. If the current application is granted ARA’s temporary exemption from parts of the DSAPT will have extended for 18 years. The time for exemption is past and the time for full inclusion has come.

The current DSAPT has two mechanisms by which non-compliance with prescriptive requirements can be addressed. An Equivalent Access solution is perfectly compliant, provided it meets the requirements of DSAPT Sections 33.3, 33.4, 33.5 and 33.6. If Equivalent Access is legitimately out of reach, then DSAPT Section 33.7 allows non-compliance due to Unjustifiable Hardship on the proviso that ‘compliance is required to the maximum extent not involving unjustifiable hardship[[3]](#footnote-4)’.

QDN encourages ARA to further explore these two options in consultation with people with disability. QDN does not support multiple extensions to temporary exemptions. Therefore, QDN opposes this application for temporary exemption.

### Flange gaps on level crossings (DSAPT Section 2.1)

The ARA can only seek a DSAPT exemption on the level crossings that form part of the access path to or from a railway station, not the 23,500 level crossings that they state exist in Australia. No doubt the number of pedestrian level crossings that are one of several options for accessing a station or platform is considerably less than 23,500. Most likely the number of stations or platforms that can only be accessed via pedestrian level crossings is less again.

ARA have not stated how many level crossings are affected by DSAPT. ARA statistics include rural and remote crossings that see little vehicular traffic and no pedestrian traffic. Therefore, the scale of the problem cannot be assessed without accurate data. QDN calls for greater transparency and accountability, so that people with disability can better understand the scale of the issue.

Queensland Rail is not a signatory to the exemption application but by way of example its City network currently has 152 stations. Only 19 of these stations have one or more platforms that are associated with level crossings[[4]](#footnote-5) and few have a platform or platforms that can only be reached via level crossings. The ARA should plainly state how many level crossings will be affected by their exemption application. The number will likely reflect the Queensland situation and not be too high.

Level crossings are dangerous places, with the flange gaps only one hazard within this too often fatal environment. As a matter of public safety, level crossings should be replaced by grade separated crossings wherever possible. Many jurisdictions are actually doing this as ARA state. They are to be commended.

Rather than an exemption, QDN recommends that action plans on level crossing removal from the various jurisdictions, outlining plans for public consultation, costing and project timeframes, should be submitted to AHRC.

### Single door access path (DSAPT Section 2.6)

DSAPT Section 2.6 is concerned only with access paths that are within the conveyance. The nominated primary boarding points proposed by ARA are located on the platform and therefore not covered by DSAPT 2.6. The ARA openly state that the exemption sought from Section 2.6 is not concerned on-board access paths, but rather concerns single door boarding from nominated primary boarding points.

A strategically located passenger assistance point on each platform for all passengers makes operational sense. Regrettably, though the ARA state that this gives easy access to the first option accessible door, staff interpret this as the only option door. People using mobility aids are crammed into the single car long after it has exceeded capacity while allocated spaces in other cars sit empty.

The system is not working in the day to day lives of Queenslanders with disability, despite rail operator policy requirements.

### No boarding assistance on ramps steeper than 1:8 (DSAPT Section 6.4)

Ramp gradient is determined by ramp length expressed as a ratio against the vertical change in level that the ramp must address. Manually deployable boarding ramps are mostly limited to 1520 mm length. This allows a maximum vertical rise of 190 mm if 1:8 or better is to be achieved. Many legacy stations will have platform to carriage floor vertical gaps well in excess of 190 mm.

Reducing the platform to carriage floor vertical gap to 190 mm or less is at most locations a simple engineering project. Genuine constraints exist on some platforms, but these are a minority. Permanent or temporary structures that raise the level of the platform to within the acceptable 190 mm vertical range can be constructed in even quite difficult locations.

Considering stations of 19th Century vintage, Queensland Rail have permanently raised platforms to carriage floor level along their entire length in some locations, for example South Brisbane and Sandgate. Other legacy stations that present a greater engineering challenge such as Roma Street and Fortitude Valley have sections raised to carriage floor height. The program is ongoing with several stations programmed for upgrades each financial year.

QDN calls on ARA to follow the Queensland examples outlined above, as well as lodge action plans with AHRC that are developed in consultation with the disability sector, detailing their plans for reducing the vertical gaps at as many stations as is feasible.

### Boarding device at single door (DSAPT Section 8.2)

As stated earlier, having a strategically located passenger assistance point on each platform that serves all customers makes good operational sense. Staff frequently misinterpret the primary nominated boarding point policy and insist that assisted boarding is via a single door only. One accessible car has its allocated spaces overloaded while the other accessible cars have allocated spaces empty.

Passengers are entitled to board at any of the clearly identified doors and should be able to nominate their preference. Equally, if stopping they are entitled to the use of signalling devices to alert staff of their location and need of a boarding device. DSAPT Section 8.7 *Signals requesting use of boarding device* covers the requirement to locate these signal devices in allocated spaces.

### Conclusion

QDN recognises that legacy infrastructure does in some instances present legitimate compliance challenges. Most of these challenges are not insurmountable though, and with the assistance of the people with disability and the disability sector the majority can be overcome.

The disability sector stands ready to work in any co-design process that arrives at Equivalent Access solutions. If full compliance cannot be reached the sector has at least been a partner in achieving the best outcome that circumstances and constraints permit. Working in respectful partnership creates trust and goodwill.

The time for ongoing exemptions has past and the time for engagement and inclusion has come.

### Appendix 1—excerpts from the 2007 exemptions granted to ARA

ARHRC granted the exemptions subject to certain conditions:

*2.1 Access paths - Unhindered passage*

For a period of three 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. This exemption is subject to the condition that the member of the ARA concerned reports to the Commission every 12 months during the period of this exemption on measures taken to reduce the use of level crossings as part of access paths and on research undertaken into possible technical solutions for bridging flange gaps.

*2.6 Access paths — conveyances*

For a period of three 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; or
  + to ensure a passenger can both board and alight the rail conveyance; and
* the ARA member concerned reports to the Commission every 12 months during the period of this exemption on measures taken to ensure that staff and passengers are adequately informed of both the access paths available at the doors of existing rail conveyances and the equivalent access measures available.

*6.4 Slope of external boarding ramps*

3.2 During the exemption period, and in relation to the provisions of the DSAPT appearing above, HREOC hereby grants an exemption such that where the slope of an external board ramp is greater than 1 in 8, ARA Operators are not required to provide staff assistance in ascending or descending the ramp.

3.3 This exemption is granted on the condition that each ARA Operator concerned report to HREOC within the exemption period on:

* the number of locations where boarding ramp slopes of 1 in 8 or better cannot currently be achieved;
* measures to be taken to increase the number of locations where external boarding ramp slopes of 1 in 8 or better will be achieved;
* any factors affecting the operator's ability to achieve external boarding ramp slopes of 1 in 8 or better in the number of locations indicated by the target proportions and dates specified for accessible boarding in the DSAPT; and
* results of examination by the operator of alternative methods for achieving accessible boarding.

*8.2 Boarding - When boarding devices must be provided*

For a period of three years, a manual or power assisted boarding device is only required at a single door rather than all doors of a rail conveyance, 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; or
  + to ensure a passenger can both board and alight the rail conveyance; and
* the ARA member concerned reports to the Commission every 12 months during the period of this exemption 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.

1. <https://humanrights.gov.au/our-work/legal/australasian-railways-association?_ga=2.209160085.624474796.1600423431-1301878180.1599910656> [↑](#footnote-ref-2)
2. <https://humanrights.gov.au/our-work/legal/australasian-railways-association-direct-assistance-ascending-and-descending> [↑](#footnote-ref-3)
3. DSAPT Section 33.7 (2). [↑](#footnote-ref-4)
4. <https://www.queenslandrail.com.au/forcustomers/access/station-access-guide> [↑](#footnote-ref-5)