New Generation Rollingstock Project

Response to the preliminary view expressed by the Australian Human Rights Commission about the temporary exemptions application

16 March 2018

Joint response by the State of Queensland (acting through the Department of Transport and Main Roads) and Queensland Rail

1. EXECUTIVE SUMMARY

(a) The State of Queensland (acting through the Department of Transport and Main Roads) (**TMR**) and Queensland Rail (together **the Applicants**) make this submission in response to the Australian Human Rights Commission's preliminary view, dated 2 March 2018.

(b) The Applicants acknowledge the Commission's assistance in considering their applications for temporary exemptions in an expeditious manner. However, the Applicants express their concern that the Commission's approach to considering the applications, as recorded in its preliminary view, reveals that the Commission has fallen into error in several respects. These errors include:

(i) adopting an incorrect approach to the exercise of its discretion in s 55 of the *Disability Discrimination Act 1992* (Cth) (**DDA**) and s 33A.1 of the *Disability Standards for Accessible Public Transport 2002* (Cth) (**the Standards**);

(ii) having regard to irrelevant considerations;

(iii) failing to consider relevant considerations, including the significant countervailing public interests and whether a grant of an exemption with conditions will serve the objects of the DDA;

(iv) applying an incorrect evidentiary onus; and

(v) relying on information that has no factual basis.

(c) The Applicants respectfully request that the Commission re-consider their applications for temporary exemptions in light of these substantive and procedural considerations.

2. INCORRECT TEST

(a) We start with some concerns with respect to legal issues and the construction of the DDA and the Standards. Section 15AA of the *Acts Interpretation Act 1901* (Cth) provides that:

> *In interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation.*

(b) As the Commission correctly points out, the objects of the DDA in s 3 are to:

> *a. eliminate, **as far as possible**, discrimination against persons on the ground of disability in [certain areas including the provision of services];*

b. *ensure, **as far as practicable**, that persons with disabilities have the same rights to equality before the law as the rest of the community; and*
c. *promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community.*
(our emphasis)

(c) It is to be noted that the objectives specified in paragraphs (a) and (b) are not expressed in absolute terms. They are directed to the achievement of the objectives specified "so far as possible" and "as far as practicable."

(d) Further, in identifying the purpose of the DDA, in the application of s 15AA of the *Acts Interpretation Act*, it is necessary to avoid fixing upon the statement of objectives contained in s 4 of the DDA and to have regard to the broader operation of the Act as a whole.[1] In this respect, the DDA makes provision for exceptions and exemptions, as does the Standards. These provisions reflect Parliament's intention to enable the Commission to grant exemptions to address particular and unique circumstances.

(e) The exceptions and exemptions for which the DDA provides reflect the balance struck by Parliament between prohibiting relevant forms of discrimination on the one hand and protecting diverse public interests on the other. Without a power of that nature, justifiable differential treatment not covered by an exception would be prohibited and actionable.

(f) There is little jurisprudence with respect to exemptions under the Commonwealth discrimination enactments and for this reason, the body of jurisprudence with respect to State and Territory discrimination legislation is instructive. In *Boeing Australia Holdings Pty Ltd*,[2] Morris J analysed the jurisprudence of the Victorian tribunal and other related jurisdictions in respect of exemptions. His Honour held an exemption could be granted even if this did not advance and was unrelated to the objects of the *Equal Opportunity Act 1995 (Vic)*, important as those objectives were.[3] The test was whether the exemption was "necessary or desirable to avoid an

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[1] *Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24 at 39 (Mason J); *Stevens v. Kabushiki Kaisha Sony* (2005) 224 CLR 193 at 206-208, *Raytheon Australia Pty Ltd & Ors and ACT Human Rights Commission [Scanned]* [2008] ACTAAT 19, [43].

[2] [2007] VCAT 532.

[3] [2007] VCAT 532, [30]-[31].

unreasonable outcome".[4] An exemption may be "appropriate for practical reasons, unconnected with equal opportunity objectives."[5]

(g) The decision of Morris J in *Boeing Australia Holdings Pty Ltd* was approved by the Court of Appeal of the Supreme Court of Western Australia in *Commissioner for Equal Opportunity v ADI Limited*.[6] The Court's reasoning was based on the following features of the *Equal Opportunity Act* 1984 (WA): not all discrimination was prohibited; not all grounds of discrimination were prohibited, there were general and specific exceptions and there was a power to grant exemptions. This revealed a legislative recognition that some "*discriminatory conduct can be justified and should not be prohibited*." The exemption power existed because "the Parliament has not been able to anticipate all the circumstances in which discriminatory conduct might nevertheless be justifiable.[7]

(h) In *BAE Systems Australia Ltd*,[8] McKenzie DP did not fully agree with the principles applied by Morris J in *Boeing Australia Holdings Pty Ltd*. According to McKenzie DP:

> *… one must look to the nature of the freedom from prohibited discrimination which the Act gives, its objectives, and whether the interests served by the exemption are sufficient to justify taking the conduct sought to be exempted out of the prohibitions of the EO Act*.[9]

(i) In *Lifestyles Communities*, Bell J determined that the broad discretion to grant exemptions in the *Equal Opportunity Act* (Vic) had to be exercised compatibly with human rights. He considered this approach was consistent with the principle of statutory interpretation that ambiguous statutory provisions should be interpreted compatibly with international law, including Article 26 of the *International Covenant on Civil and Political Rights* but that in any event, since the enactment of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter), this approach was mandated by s 32 of the Charter.[10] While there is no Human Rights Act at the federal level, Bell J's analysis of the right to equality and when limitations on the right to equality can be reasonably justified

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[4] [2007] VCAT 532, [38].

[5] [2007] VCAT 532, [31].

[6] [2007] WASCA 261.

[7] [2007] WASCA 261, [59].

[8] [2008] VCAT 1799.

[9] [2008] VCAT 1799, [17].

[10] *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* [2009] VCA 1869, [65].

is instructive in determining how the power to grant an exemption under the DDA can be exercised consistently with its objects, to among other things, eliminate discrimination as far as possible.

(j) Under international human rights law, a human right may be subject under law to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors including –

(i) The nature of the right; and

(ii) The importance of the purpose of the limitation; and

(iii) The nature and extent of the limitation; and

(iv) The relationship between the limitation and its purpose; and

(v) Any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

(k) As the interests of people and groups living in society sometimes conflict and must be balanced, human rights are not absolute and may need to be limited. The proportionality requirement imposes a stringent standard of justification which can be satisfied only when there is a pressing and substantial need for the limitation. The limitation must be reasonable and demonstrably justified in a free and democratic society.

(l) To establish a limitation is reasonable and justified in a free and democratic society, the purpose (the end) of the limitation must be legitimate and of sufficient importance to warrant overriding a protected human right. Further, the limitation (the means) must be proportionate and appropriate for achieving that purpose. The purpose of the limitation must be sufficiently important to warrant the limitation. Generally, limitations should impair human rights as little as possible and will not be proportionate and justified if they go further. It is not necessary for the limitation to be the least which is conceivable possible, but within a range of reasonable alternatives.

(m) The Applicants respectfully submit that the Commission's consideration of whether to grant a temporary exemption under either s 55 of the DDA or s 33A.1 of the Standards should be guided and informed by these principles.

(n) The power in s 55 of the DDA and s 33A.1 of the Standards takes as a starting point that there is a non-compliance with the law – which is why an exemption is necessary. It is not the correct approach to admonish an applicant for being in a state of non-compliance or for

the past processes which have resulted in such non-compliance. This approach is inconsistent with the purpose of the exemption power, which operates only prospectively with respect to future conduct. It is respectfully submitted that to the extent the Commission has taken past conduct into account it has fallen into error.

(o) The following parts of the preliminary view reveal that the Commission has considered the irrelevant matter of the Queensland Government's past procurement and consultation processes:

(i) The extracts from the submissions received through the Commission's consultation process set out at [9.12] – [9.16] focus on advocates' genuine and understandable frustration with the procurement and consultation process, which the Applicants acknowledge could have been much improved. However, it is not clear how what happened in the past is a relevant discretionary factor.

(ii) The Commission's consideration of the fact that planning and procurement for the NGR project commenced in 2008 and the contract was awarded to Qtectic in 2013, some 6 and 11 years after the Standards came into operation at [9.18]

(iii) The Commission's comment that "it is difficult to understand why the State of Queensland procured new trains in 2013 and then applied for temporary exemptions to the DDA and the Transport Standards" [9.20]

(iv) The Commission's consideration of the fact that the question of compliance would not have arisen if compliant trains had been procured in the first place [9.22]

(v) The Commission's consideration that "it is not clear why the Queensland Government procured non-compliant trains in 2013, or why the rectification work did not occur between procurement in 2013 and entry into passenger service in 2017" [9.22]

(p) In adopting an approach that appears to focus on reprimanding the Applicants for the past processes, the Commission has taken the wrong approach. A fair-minded reader of the Commission's preliminary views would conclude that the reason for refusing the exemption is to admonish the Applicants for past processes. In this respect, the Commission has fallen into significant error in determining the matters that are relevant in the exercise of its discretion to grant a temporary exemption.

3. PROPER ROLE OF THE COMMISSION IN CONSIDERING AN APPLICATION FOR AN EXEMPTION

(a) On the basis of the authorities set out above, the proper role of the Commission ought to have been to scrutinise the Applicants' rectification plan and timetable and consider whether, on the basis of this information, an exemption is justified in that it serves a legitimate public purpose and is the least restrictive of the rights of persons with a disability.

(b) In light of these considerations, is it highly concerning that the Commission has expressed the view that information provided by the Applicants relating to the current status of the NGR build and its deployment plan, consultation with the ARG and a high-level timetable for the proposed rectification work was not considered 'relevant' or 'significant' to its decision making (at [7.2]).

(c) In the Applicants' submission, interrogation of this information should have been critical to the Commission's consideration of whether to grant temporary exemptions in this case and its admission that this information was not considered relevant demonstrates that it has not considered relevant factors in reaching its preliminary view.

(d) In any event, there is an inconsistency between [7.2] and [9.26] of the preliminary view, where the Commission states that 'there is a level of uncertainty regarding the proposed rectification process' and appears to give this factor some weight.

(e) The Applicants request that the Commission consider this information in support of their applications for temporary exemptions.

4. OBJECTS OF THE DISABILITY DISCRIMINATION ACT

(a) The Commission's Guidelines about how it proposes to exercise its power under the DDA state that temporary exemptions may, for example, allow a person to make changes to comply with the DDA or be granted where doing so will facilitate greater compliance with the DDA over time.

(b) Further, in *Raytheon Australia Pty Ltd & Ors and ACT Human Rights Commission*,[11] the Court noted that an example of the kind of exemption which might be granted despite being inconsistent with

[11] [2008] ACTAAT 19.

the objects of the Act is a "transitional situation to allow widespread discrimination to be phased out over a period of time".[12]

(c) In *Waters v Public Transport Corporation*,[13] Brennan J expressed the view (at 372) that:

> *The provision of services for the disabled, a function properly and necessarily reposed in the Executive Government as the branch of Government with fiscal power and responsibility, might not receive due attention if the measure of the entitlements of the disabled is determined by litigation under anti-discrimination legislation. Anti-discrimination legislation should be liberally construed but not as though it were the only, or even the principal, means by which the disadvantages of the disabled or of other minority groups are to be alleviated.*

(d) It is also noted that the United Nations Committee on the Rights of Persons with Disabilities has recently commented in its *General Comment No 2 on Accessibility* that ensuring access to transportation may be achieved through gradual implementation, where necessary. While the Convention draws a distinction between procurement of new infrastructure and removing existing barriers, the practical reality is that currently, the NGR trains require existing barriers to be removed. The General Comment endorses the view that there should be definite time frames, allocation of adequate resources and effective monitoring mechanisms to ensure accessibility. Barriers should be removed in a continuous and systematic way, gradually yet steadily.[14]

(e) The Applicants previously informed the Commission that the purpose for their application for temporary exemptions was to "allow them to progressively resolve the areas of non-compliance and improve the functionality of the NGR train" and to "provide certainty while agreed and funded rectification work is completed".

(f) The Applicants wish to further elaborate on these purposes to explain that increased certainty of obligations would assist them to take measures to improve the accessibility of rail services for people with disabilities and applying conditions to exemptions (such as reporting and consultation requirements) would enable the Commission to ensure there is a mechanism to monitor the

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[12] [2008] ACTAAT 19, [52]

[13] (1992) 173 CLR 349.

[14] See: UN Doc: CRPD/C/GC/2, Committee on the Rights of Persons with Disability, General Comment No 2 (2014) Article 9: Accessibility, [24]-[27].

rectification work to ensure there is adequate consultation with the disability sector and timely progress towards making the NGR fleet as compliant as possible with the Standards.

(g) In this respect, the Applicants are concerned that the preliminary view contains no consideration of the proposed conditions that the Applicants included in their primary application. The Commission's Guidelines state that when the Commission considers whether granting an exemption is consistent with the objects of the DDA, it will consider "whether any exemption could be granted subject to terms and conditions which further the objects of the *Disability Discrimination Act*." The Guidelines further state:

> *In particular, the Commission will consider whether an exemption could be granted subject to terms and conditions which require action to be taken by the applicant during the term of the exemption that will:*
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> - *Reduce or remove, over time, the discriminatory practice or circumstance; and/or*
> - *Further the objects of the DDA.*

(h) The Applicants respectfully submit that the conditions they proposed in their application imposing reporting and consultation requirements on them throughout the period of the temporary exemption will reduce the impact of the non-compliant aspects of the NGR trains over time and will further the objects of the DDA and ought to have been properly considered by the Commission in reaching its preliminary view.

5. PUBLIC INTEREST FACTORS

(a) The Applicants are also concerned that the Commission has failed to adequately consider the substantial public interest factors weighing in favour of granting the exemptions. These factors were set out in the Applicants' response to the public submissions and include:

(i) The significant public interest in maintaining and improving the capacity of South East Queensland's passenger rail network for all customers, including those with disabilities;

(ii) Withholding the NGR trains from service is likely to incur costs for the State of Queensland under the Public Private Partnership contract;

(iii) The NGR trains include a wide range of new and improved features for all customers; and

(iv) The NGR trains are substantially accessible to customers with a disability.

(b) There is also a public interest in ensuring that the NGR fleet can service the increased demands for passenger travel during the Commonwealth Games in April 2018.

(c) In *ADI Limited*,[15] the State Administrative Tribunal concluded that the public interest in granting the exemption overrode the exercise of the discretion to refuse to grant the application for exemption. In doing so it observed that the likely closure of the applicants' operations in Western Australia was not in the best interests of the community of that State and that a public interest existed in the applicant fulfilling its contractual obligations to supply defence equipment of the highest quality and using the latest available technology. While the State Administrative Tribunal considered that the applicants could reasonably be expected to continue to seek amendments to the contractual terms, such processes were potentially lengthy and expensive and were neither feasible nor practical.

(d) In *Boeing Australia Holdings Pty Ltd*,[16] in granting the exemption, the Queensland Anti-Discrimination Tribunal accepted, inter alia, that national security considerations in the context of defence work in which the applicant was involved and the impact on the national economy were matters which, in the public interest justified the grant of an exemption.

(e) In *Raytheon Australia*,[17] the Anti-Discrimination Tribunal of Queensland considered that, subject to the conditions proposed by the applicant, it was appropriate and reasonable for an exemption to be granted. In doing so it referred to the benefits to the Australian community in being able to access the relevant defence technology and in its own workers having the ability to use their skills in those industries. It was also satisfied that there were no other anti-discriminatory ways reasonably open to the applicants to continue their business activities.

(f) It is apparent that, in arriving at the decisions in each of the cases referred to above, the view was taken that in exercising the discretion to grant an exemption from the operation of equal opportunity/anti-discrimination legislation of the relevant State, the decision-maker was entitled to have regard to broad considerations of public interest.

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[15] [2005] WASAT 259.

[16] [2003] QADT 21.

[17] [2008] QADT 1.

(g) In *Commissioner for Equal Opportunity v ADI Limited*,[18] Martin CJ said (at [70]):

> *It follows that when the Tribunal comes to consider an application for exemption from the operation of the Act, it can and should take into account the fact that the legislature has recognised that there are some circumstances in which discriminatory conduct can be justified by reference to considerations which are extraneous to the anti-discriminatory objects of the Act, and that it has conferred upon the Tribunal the power to identify circumstances beyond those specified in the Act, in which conduct which is otherwise discriminatory should nevertheless be lawful.*

(h) There is no evidence in the preliminary view that the public interest factors weighing in favour of the grant of temporary exemptions, particularly the significant public interest in maintaining and improving the capacity of South East Queensland's passenger rail network for all customers, including those with disabilities, and particularly during the Commonwealth Games, were given adequate consideration by the Commission.

6. INADEQUATE REASONING

(a) At [9.25] of the preliminary view, the Commission states that it "is not persuaded that the reasons advanced in favour of the exemptions outweigh the impact on people with disability who are likely to experience discrimination in the meantime". However, there is no analysis or reasoning to support this conclusion.

(b) It is not clear from the preliminary view whether the following evidence of the Applicants was taken into account by the Commission:

(i) that due to the narrow gauge of the tracks in South East Queensland passenger rail network, car bodies are narrow-width which means compliance with the Standards is a challenge;

(ii) the technical constraints which mean that options to rectify the NGR trains will take a significant time to implement;

(iii) the Applicants' Action Plans developed and lodged in accordance with part 3 of the DDA;

(iv) that the NGR trains are required to replace an ageing train fleet which has reached the end of its life;

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[18] [2007] WASCA 261.

(v) that the NGR trains are required for operation in the upcoming Gold Coast Commonwealth Games in April 2018 to meet the significantly increased demand in passenger travel during this period and contribute to the economic and social success of the Games;

(vi) The measures proposed to minimise or reduce hardship which may be faced by people with a disability affected by the proposed exemption, including that 105/154 stations provide unisex accessible toilets; the Customer Communication/Education Campaign; opportunities for passengers with disabilities to view and trial the accessible toilet module prior to travel; information on the QR website to assist planning of travel.

(c) Further, there is no analysis of what the impact on people with a disability will be if the Commission does not grant the exemption. The Commission has correctly identified that it does not have the power to prevent the NGR trains from being in operation and that the effect of its decision is to allow people with a disability to make complaints about incidents of disability discrimination they experience on the NGR trains.

(d) However, in circumstances where the Applicants have already acknowledged there are aspects of non-compliance with the Standards, have committed to rectifying the NGR trains, committed to consulting with the ARG about design of the rectification works and allocated funds for these purposes, the utility of a complaint process appears to be limited.

(e) The design, build, testing and certification of rectification works to a major piece of State infrastructure cannot happen immediately and the preliminary view does not give any consideration to these practical considerations.

7. EVIDENTIARY ONUS

(a) At [8.12] of the preliminary view, the Commission states that 'exemptions should not be granted lightly' and that 'it must be satisfied that a temporary exemption is appropriate and reasonable and substantial evidence is needed to justify the exemption'.

(b) With respect, the Commission does not provide any support for this view and the Applicants are concerned that the Commission is imposing an unduly onerous evidentiary burden on applicants for temporary exemptions.

(c) While it is acknowledged that granting an exemption is a serious step because it means someone can lawfully discriminate against

another and that it is an applicant's obligation properly to substantiate their case,[19] the standard of proof is the ordinary standard of the balance of probabilities.[20]

(d) In any event, as outlined above, the Applicants submit that they have provided substantial evidence to justify the grant of an exemption, which appears to have been overlooked in the Commission's preliminary view.

8. UNSUPPORTED STATEMENTS OF FACT

The Applicants note that in several respects the preliminary view expresses statements that are inaccurate and are concerned that the Commission may have fallen into error by relying on these assertions. For example, the statement in [9.2] that the 'new trains do not meet the Transport Standards' is highly generalised and is apt to mislead. Certain limited aspects of the NGR fleet do not meet a number of specific Standards that have been detailed in the Applicants' application. The NGR fleet meets the remaining provisions of the Standards.

9. LOCATION OF THE GUARD

(a) The Applicants acknowledge the concerns raised by advocates about the guard carriage being located at the back of the train in the new NGR trains and repeat their commitment to ensuring extra staff are located on the platform to assist persons with disability board the NGR trains.

(b) However, the Applicants are concerned that the Commission commenting on this aspect of the submissions it received is prejudicial to the Applicants, particularly where there is an existing complaint about this issue, notwithstanding the fact that the President has delegated her complaint-handling functions with respect to this complaint.

(c) The Commission has expressed the preliminary view that this issue falls outside the scope of the current exemption application. The Applicants note that their initial application sought an exemption from s 23 and s 24 of the DDA in matters regulated by the Standards and that are subject to an exemption granted by the Commission and that they confirmed in their response to the public submissions, that they were not seeking an exemption with respect to this issue.

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[19] *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* [2009] VCAT 1869, [7].

[20] *Lifestyle Communities Ltd (No 3) (Anti-Discrimination)* [2009] VCAT 1869, [298].

10. PROPOSED GRANT OF TEMPORARY EXEMPTION

(a) The Applicants support the Commission's proposed grant of a temporary exemption from s 8.2 of the Standards until 1 October 2020.

(b) The Applicants consider that it is an appropriate and reasonable exercise of the temporary exemption power to extend the temporary exemption currently applicable to Queensland Rail as operator to TMR as provider to avoid a legal inconsistency.

11. RECTIFICATION WORK

(a) Further to the points raised above, the Applicants assure the Commission that that the rectification work is fully-funded, and will be carried-out progressively over the next three years (as outlined in the applications and responses).

(b) The Applicants would also like to assure the Commission that a detailed plan outlining each step of the rectification process and timeframes is in the final stages of development.

(c) Design work is already underway in preparation for further consultation with the disability sector and other key stakeholders in the coming months, following which, the detailed rectification plan will be released publicly.

12. CUSTOMERS TRAVELLING ON NGR TRAINS PRIOR TO RECTIFICATION WORK

(a) The NGR trains are substantially accessible to customers with a disability.

(b) Further, it is the Applicants' view that the operating model used for the NGR trains will not result in discriminatory outcomes for people with disabilities.

(c) Queensland Rail encourages feedback from customers so that it can continually improve its service. People with a disability are encouraged to contact Queensland Rail to provide feedback, both positive and constructive, on the NGR service.

(d) Accessibility strategies to support customers with disabilities travelling on the heavy rail network, which Queensland Rail will implement immediately before and during the Commonwealth Games include:

(i) Working with TMR and other operators on seamless station precinct plans, with identified transport hubs at Gold Coast

stations, such as Helensvale, having a dedicated priority queuing lane, for customers with disabilities.

(ii) Increased deployment of frontline customer service staff at Gold Coast stations and key Brisbane stations to support the increased volume of customers, with staff being tasked to support customers with disabilities to move through the station precinct.

(iii) Deployment of temporary high level platforms, at key stations, such as Beenleigh, Loganlea, Altandi and Roma Street stations, to provide easy access on and off trains.

(iv) Increased preventative maintenance of station equipment, including lifts, with a complete overhaul of the lift at Helensvale station. Key service contractors, such as lift technicians will be on stand-by throughout the period of the Games.

(v) Hiring of accessible maxi-taxis throughout the period of the Games, particular on the Gold Coast to assist transport of customers with disabilities to the next independently accessible station, in the unlikely event of temporary lift outages.

(vi) Temporary removal of station infrastructure (such as seating), to allow for additional space for customers with disabilities around the boarding zones and the provision of a clear pathway to boarding zones and lifts.

(e) These strategies have been communicated to Queensland Rail's Accessibility Reference Group and information has been distributed to disability sector contacts.

(f) Queensland Rail has contacted disability sector organisations and networks to offer assistance in discussing options for accessible journeys during the Games period on 26 February 2018.

(g) Customers with disabilities have also been encouraged to plan ahead and use the dedicated GC2018 Journey Planner which has an accessible travel function. For example, a customer with disabilities can select a particular Games event and then click on the international symbol for accessibility to plan an accessible journey.

(h) Following the Games, Queensland Rail will continue to provide accessible journey planning assistance for customers with disabilities through:

(i) The Station Access Guide – at a glance information on station accessibility to assist with journey information.

(ii) Telephone customer service - call 13 16 17 or text only 0428 774 636 – a Queensland Rail Customer Communications Officer will respond promptly to requests for train and platform assistance, station accessibility or timetable information

(iii) Staff assistance – speaking directly with station staff or guards to request boarding assistance or journey information.

13. A SINGLE INTEGRATED TRANSPORT NETWORK ACCESSIBLE TO EVERYONE

(a) In partnership with Queensland's Anti-Discrimination Commission, TMR is working toward the shared vision of a single integrated transport network accessible to everyone.

(b) To achieve this vision, the following actions are being undertaken:

(i) Ensuring access and inclusion plans are in place, ensuring the use of inclusive language for all diverse groups.

(ii) Reviewing procurement processes, considering reference to tenderers to meet goods and services provisions in the Anti-Discrimination Act 1991: procurement standard ASEN301549.

(iii) Continuing to engage with key stakeholders regarding accessibility of the Queensland passenger transport network through the TMR Accessibility Reference Group.

(iv) Continuing to ensure people with disability have access to safe, reliable and affordable personalised transport services.

(c) Further to this commitment, a new team within TMR has been created – Accessible Transport Networks (ATN), led by an Executive General Manager (EGM), reporting directly to the Director-General.

(d) The EGM (ATN) will be responsible for improving the accessibility of transport services, with a particular focus on seamless access to all modes of transport for customers with a disability. The EGM (ATN) will represent TMR at all accessible transport forums, engage with relevant stakeholders and community groups and be a consistent and leading voice on accessibility matters, both within TMR and across public and industry sectors.

(e) Recruitment for the EGM (ATN) and wider team positions is currently underway.

14. CONCLUSION

The Applicants respectfully request that the Commission carefully reconsider its preliminary view in light of the substantive and procedural

matters addressed above. The Applicants submit that when the proper considerations are taken into account and the correct legal tests applied, the discretion should be exercised in favour of the exemptions being granted.