
10 September 2015
Mr John Howell, Lawyer
Australian Human Rights Commission
Level 3, 175 Pitt Street
Sydney
NSW 2000

Dear John

Subject: Australasian Railway Association (ARA) - Applications for Temporary Exemptions

Thank you for your email dated 3 September 2015 advising the Association of Consultants in Access Australia Inc (ACAA) of Michael Small engagement as an external technical advisor. ACAA would generally be supportive of the advice contained in Michael Small's report but ACAA currently not in a position to provide any detailed objective analysis of all that is contained in the report given the short deadline 10.09.2015.

ACAA would like to briefly respond to the ARAs response to the ACAAs comments highlighted below in red.

Response to the Association of Consultants in Access Australia (ACAA)

1. The purpose of the application is not to be site-specific. **Needs to be, cannot be a sweeping generalisation – justification required on a station by station basis.** This was a general application made on behalf of the ARA for all operators. The industry would be committed to a discussion of conditions to be imposed if the exemptions were granted, which may include readily made information to customers regarding specific locations to inform the most accessible journey.
2. The ARA application shows the progression towards compliance with the Transport Standards and Premises Standards within a complex rail environment in the years since exemptions were previously granted. **Instances where compliance cannot be achieved needs to be documented and approved by all parties on a location specific basis.** The ARA, on behalf of its members, has sought notably fewer exemptions, with the application referring to 22 of the previous 31

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granted exemptions and just 3 of the previous 30 deferred exemptions. The Progress that the industry has made was also noted in the 2012 Review of the Transport Standards.

3. In relation to the ACAA's comment on 'direct assistance', the industry does not believe that this is a key fulcrum of alternative solutions. **Surely it has to be in terms of existing Infrastructure, where compliance is not able to be achieved due to spatial restrictions?** Performance based outcomes do not necessarily rely on direct assistance measures. Operators balance OH&S requirements when determining performance based solutions. Frontline staff are involved in any changes to procedure which may carry any risk. Some operators have dedicated funds to the sufficient training of staff to provide direct assistance to customers. Surely the above is all a variation on the theme of an approach utilising direct assistance.
4. Approach 2: the ARA requires further clarification from the ACAA regarding the intent of this approach. It appears that the suggestion to 'continue exemptions already in place' relates only to exemptions for accessways on premises. Continuing exemptions relate to much more than just access paths and ramp gradients. **What is the justification for this to be considered?** The proposed layout of information would add very little value for customers.
5. Approach 3: the ACAA suggests that ARA members develop site-specific performance based solutions in the form of Alternative Building Solution Reports which document both the enduring non compliances and the local management process by which equivalent access can be provided in the form of direct assistance or other means. Whilst the suggestion of developing 'Alternative Building Solution Reports' has merit it also serves to highlight some of the difficulties with the application of the Premises and Transport Standards. **What other alternatives are available – address departure by either unjustifiable hardship (maybe too many instances of this to go to each State panel), or individual Alternative Solution reports using DP1 / DP2, in the absence of performance requirements available under H2 of the BCA.**

Head Office

20 Maud Street
Geelong Victoria
Australia 3220

Postal Address

20 Maud Street
Geelong Victoria
Australia 3220

Contact

Telephone +61 3 5221 2820
Facsimile +61 3 5221 2820
secretary@access.asn.au

Website

www.access.asn.au
acn 978 370 019
abn 45 978 370 019

One question ACAA considers needs to be answered is, who bears the risk if a DDA complaint is found to be justified during the period that a “temporary” exemption is granted?

If you have any queries please do not hesitate to contact me.

Regards


Terry Osborn
Secretary/Office Administrator

Head Office
20 Maud Street
Geelong Victoria
Australia 3220

Postal Address
20 Maud Street
Geelong Victoria
Australia 3220

Contact
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Facsimile +61 3 5221 2820
secretary@access.asn.au

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