

# **New Generation Rollingstock Project**

Application for temporary exemptions  
under the *Disability Standards for  
Accessible Public Transport 2002* (Cth)  
and *Disability Discrimination Act 1992*  
(Cth)

27 September 2017

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

**NEW GENERATION ROLLINGSTOCK PROJECT**  
**APPLICATION FOR TEMPORARY EXEMPTIONS UNDER THE *DISABILITY***  
***STANDARDS FOR ACCESSIBLE PUBLIC TRANSPORT 2002 (CTH)***  
***DISABILITY DISCRIMINATION ACT 1992 (CTH)***

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## 1. EXECUTIVE SUMMARY

### 1.1 Purpose

- (a) The purpose of this application is to provide certainty while agreed and funded rectification work is progressively undertaken on Queensland's New Generation Rollingstock (**NGR**) trains. The rectification work will deliver accessible outcomes for all customers by resolving non-compliances (as far as possible) and providing improved functionality across the six-car train.
- (b) The State of Queensland (acting through the Department of Transport and Main Roads) (**TMR**) and Queensland Rail (**QR**) are committed to delivering accessible public transport for all customers.

### 1.2 The NGR project

- (a) The NGR project will deliver 75 new six-car passenger trains for South East Queensland through an Availability Public Private Partnership (**PPP**) awarded to the Bombardier Transportation-led consortium Qtectic in 2013.
- (b) Once delivered, the NGR trains will be owned by TMR and operated by QR on its Citytrain network.
- (c) Bombardier Transportation Australia, TMR and QR are members of the Australasian Railway Association (**ARA**).

### 1.3 Current NGR train configuration

- (a) An overview of the NGR train's current configuration is as follows:
  - (i) Single deck, electric train to operate on the South East Queensland suburban and interurban narrow-gauge rail network
  - (ii) Six narrow body cars per train, with a train crew/drivers cab at each end (147 metres long)
    - (A) Two accessible cars (known as the MA and MB cars) in the middle of the six-car set
    - (B) Twelve allocated spaces, six in each accessible car
    - (C) One unisex accessible toilet module in the MB car
    - (D) Four priority seats in each car

- (b) A single on-platform assisted boarding point is provided due to existing station infrastructure constraints. The single assisted boarding point will align with either the rear door of the MA car or front door of the MB car (with the unisex accessible toilet module) depending on the direction of travel.

#### 1.4 Compliance issues

The following compliance issues have been identified with the current NGR train configuration:

- (a) Access paths – width:
  - (i) The access path between the allocated spaces in the two accessible cars is not compliant
  - (ii) The access path past the unisex accessible toilet module is not compliant due to the narrow body width of the car
- (b) Access paths – extent of path:
  - (i) The access path does not extend between the single assisted boarding point door and all allocated spaces and priority seats in the accessible cars
  - (ii) The access path does not extend between all allocated spaces and priority seats in the accessible cars to/from the unisex accessible toilet module
- (c) Unisex accessible toilet module:
  - (i) Dimensions – one dimension within the toilet module (from the centre-line of the pan to far side wall) is non-compliant due to the design trade-off between the size of the toilet module and adjacent path past the toilet
  - (ii) Functionality – some customers using a mobility device may not be able to carry out a fully parallel side transfer to the pan due to the circulation space between the toilet module’s curved door and wall and pan

#### 1.5 Exemptions sought

- (a) TMR and QR (together, **the Applicants**) seek the following exemptions to the *Disability Discrimination Act 1992 (Cth)* (**DDA**) and *Disability Standards for Accessible Public Transport 2002 (Cth)* (**DSAPT**) from the Australian Human Rights Commission (**Commission**) for a period of three years, to progressively resolve

non-compliances (as far as possible) and improve the overall functionality of the NGR train.

- (b) Under the DDA, the following exemption is sought:<sup>1</sup>
  - (i) Sections 23 and 24 – in matters regulated by the DSAPT and that are subject to an exemption granted by the Commission
- (c) Under the DSAPT, the following exemptions are sought:<sup>2</sup>
  - (i) Section 2.6(1)
    - (A) Width of access path adjacent to the unisex accessible toilet module in the MB car
    - (B) Width of access path adjacent to an allocated space in the accessible cars
    - (C) Access path is only available at a single door
  - (ii) Section 2.8(1)
    - (A) Extent of access path from the entrance of the single assisted boarding door to all allocated spaces and priority seats in the accessible cars
    - (B) Extent of access path from the entrance of the single assisted boarding door to the unisex accessible toilet module
  - (iii) Section 8.2
    - (A) Availability of a manual assisted boarding device (ramp) at any accessible entrance
  - (iv) Section 15.3
    - (A) Availability of unisex accessible toilet to passengers using wheelchairs and mobility aids
  - (v) Section 15.4(1)(b)
    - (A) Ability for passengers in wheelchairs or mobility aids to enter, position their aids and exit the toilet module.

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<sup>1</sup> The details of the precise exemptions sought from the DDA, including applicable conditions, are outlined in Part 4 of this Application.

<sup>2</sup> The details of the precise exemptions sought from the DSAPT, including applicable conditions, are outlined in Part 4 of this Application.

(vi) Section 15.4(3)

- (A) Dimension from the centre line of the pan to the far-side wall

## 1.6 Rectification Plan

- (a) The Queensland Government has agreed to allocate funds for the rectification work required to resolve the non-compliances outlined above (as far as possible) and provide improved functionality across the NGR train.
- (b) The funded rectification work will include:
- (i) Reconfiguration of the unisex accessible toilet module to meet dimensions and improve functionality in line with DSAPT
  - (ii) Dividing the NGR fleet of 75 trains in two:
    - (A) Interurban fleet of 35 trains (two unisex accessible toilet modules per six-car train) – adding a second unisex accessible toilet module to the MA car, so that allocated spaces in both the MB and MA have a DSAPT-compliant access path to a toilet module
    - (B) Suburban fleet of 40 trains (no toilets) – remove the unisex accessible toilet module from the MB car
  - (iii) Reconfiguration of seating and allocated spaces in both accessible cars to meet access path width requirements between the assisted boarding door and accessible facilities
  - (iv) Other changes will include additional priority seating in new locations, revised train signage (wording and braille), additional grab/handrails and additional accessible buttons and controls where appropriate to maximise functionality.
- (c) While the rectification work is underway, the NGR trains will enter passenger service in their current configuration (as outlined in paragraph 1.3 above) to meet requirements for increased capacity for and beyond the 2018 Gold Coast Commonwealth Games.

## 2. **PROJECT OVERVIEW**

- (a) The State of Queensland (acting through the Department of Transport and Main Roads (**TMR**) and Queensland Rail (**QR**) (together, the **Applicants**) seek temporary exemptions pursuant to section 55(1) of the DDA and section 33A.1 of the DSAPT.
- (b) This application relates to the NGR project which involves the delivery of 75 new six-car trains for South East Queensland.
- (c) Planning and procurement for the NGR project commenced in 2008, and an Availability PPP contract was awarded to the Bombardier Transportation-led consortium, Qtectic in December 2013.
- (d) Under the PPP contract, Qtectic is responsible for designing, building and maintaining the 75 new trains over a 32 year period.
- (e) Once delivered, the NGR trains will be owned by TMR and operated by QR on its Citytrain network.
- (f) The NGR trains will increase the capacity and reliability of existing Queensland Rail fleet as ageing rollingstock is progressively retired.
- (g) TMR and QR are working together to ensure that as many new NGR trains possible are operational in time for the Gold Coast Commonwealth Games in April 2018.

### 3. THE NGR TRAIN

- (a) The NGR train was procured in December 2013 (when the PPP contract was awarded) to the following technical specifications:
  - (i) Single deck, electric train to operate on the South East Queensland suburban and interurban narrow-gauge rail network
  - (ii) Six narrow body cars per train, with a train crew/drivers cab at each end (147 metres long)
    - (A) Two accessible cars (known as the MA and MB cars in the middle of the six-car set)
    - (B) Twelve allocated spaces, six in each accessible car
    - (C) One unisex accessible toilet module in the MB car
    - (D) Four priority seats in each car
- (b) Due to the narrow gauge of the tracks in the South East Queensland passenger rail network, car bodies are narrow-width which means compliance with a number of the requirements of the DSAPT is a challenge.
- (c) Consultation with external stakeholders was undertaken throughout train procurement, concept and detailed design development phases of the project.
- (d) Two sessions were held with representatives from the Queensland disability sector at a physical mock-up of a portion of the train in August 2014 and March 2015.
- (e) The non-compliances identified on the NGR train relate to:
  - (i) Access paths – width:
    - (A) The access path adjacent to the allocated spaces in the two accessible cars is not compliant.
    - (B) The access path past the unisex accessible toilet module is not compliant.
  - (ii) Access paths – extent of path:
    - (A) The access path does not extend between the single assisted boarding point door and all allocated spaces and priority seats in the accessible cars.



- (B) The access path does not extend between all allocated spaces and priority seats in the accessible cars to/from the unisex accessible toilet module.
- (iii) Unisex accessible toilet module:
  - (A) Dimensions – one dimension within the toilet module (from the centre-line of the pan to far side wall) is non-compliant due to the design trade-off between the size of the toilet module and adjacent path past the toilet.
  - (B) Functionality – some customers using a mobility device may not be able to carry out a fully parallel side transfer to the pan due to the circulation space between the toilet module’s curved door and wall and pan.
- (f) In response to these findings and concerns raised by the disability sector through the Queensland Rail Accessibility Reference Group (**ARG**), TMR made a commitment in June 2017 to review the overall design of the NGR train’s design to maximise its compliance with the discrimination and safety legislation, associated disability standards and functional performance requirements.
- (g) As part of this review, the *NGR Accessibility Options Development and Selection process* was established whereby TMR proactively engaged with the disability sector to develop and assess a suite of design options to address identified accessibility issues.
- (h) The engagement and feedback process with the ARG included:
  - (i) Meeting to announce the review of the NGR train’s design and the *NGR Accessibility Options Development and Selection process* – Tuesday 27 June 2017
  - (ii) Distribution of a draft *Preliminary Options Discussion Paper* for feedback – Thursday 6 July 2017
  - (iii) Feedback on the draft *Preliminary Options Discussion Paper* received – Friday 14 July 2017
  - (iv) Distribution of a final *Preliminary Options Discussion Paper* – Friday 21 July 2017
  - (v) Meeting to present and discuss the *Preliminary Options Report* – Friday 18 August 2017
  - (vi) Two-week feedback period – Friday 18 August to Friday 1 September 2017

- (vii) Feedback on the *Preliminary Options Report* received – Friday 1 September 2017
- (viii) *Final Options Report* distributed – Friday 8 September 2017.
- (i) The *Final Options Report* was presented to Government for decision on Thursday 21 September 2017.
- (j) On 22 September 2017, the Government announced its decision to fully fund the rectification work set out in paragraph 1.6 of this application.

#### 4. TEMPORARY EXEMPTIONS SOUGHT

Together, TMR and QR<sup>3</sup> seek the following exemptions to the DDA and DSAPT for a period of three years, to progressively resolve non-compliances (as far as possible) and improve the overall functionality of the NGR train.

| Provision                            | Duration       | Exemption sought   |
|--------------------------------------|----------------|--|
| <p>DSAPT, s.2.6<br/>Access paths</p> | <p>3 years</p> | <p>(a) For a period of three years from the date of the Commission's decision, the width of the following access paths inside the NGR train do not need to comply with section 2.6 of the DSAPT:</p> <ul style="list-style-type: none"> <li>(i) the access path adjacent to the toilet module in the MB car; and</li> <li>(ii) the access paths adjacent to allocated spaces in the accessible cars,</li> </ul> <p>subject to the following conditions:</p> <ul style="list-style-type: none"> <li>(iii) TMR and QR reconfigure (or facilitate reconfiguration of) the seating and allocated spaces to achieve access paths with compliant widths in both accessible cars;</li> <li>(iv) TMR and QR facilitate physical access for the ARG to conduct inspections of reconfigured NGR trains before they are returned to passenger service;</li> <li>(v) TMR and QR consult with the ARG at least every six months on the impact of this exemption on passenger amenity and steps being taken to address areas of non-compliance; and</li> <li>(vi) TMR and QR report to the Commission at least every six months during the period of this exemption on the progress of the rectification work, the impact of this exemption on passenger amenity, and the outcome of consultations with the ARG.</li> </ul> <p>(b) For a period of three years, an access path is only required at a single door rather than all doors of the NGR train subject to the following conditions:</p> |

<sup>3</sup> Note that the Commission has previously granted exemptions dated 1 October 2015 which apply to QR.

| Provision  | Duration       | Exemption sought  |
|--|----------------|---|
|  |                | <p>(i) equivalent access is provided at an alternative door of the NGR train in the following circumstances:</p> <p>(A) if an allocated space is not available; or</p> <p>(B) to ensure a passenger can both board and alight the NGR train.</p>  |
| <p>DSAPT s.2.8(1)</p> <p>Extent of access path</p> | <p>3 years</p> | <p>For a period of three years from the date of the Commission's decision, compliance with clause 2.8(1) is not required from the entrance of the train to the facilities or allocated spaces provided for passengers with disabilities, subject to the following conditions:</p> <p>(a) TMR and QR reconfigure (or facilitate reconfiguration of) the seating and allocated spaces on the accessible cars of NGR trains to achieve an access path between:</p> <p>(i) the assisted boarding entrance door in the MA car and the allocated spaces and priority seats in the MA car, and</p> <p>(ii) the assisted boarding entrance door in the MB car and the allocated spaces and priority seats in the MB car;</p> <p>(b) On inter-urban NGR trains, TMR and QR provide an additional unisex accessible toilet in the MA car;</p> <p>(c) On suburban NGR trains, TMR and QR remove the toilet in the MB car;</p> <p>(d) TMR and QR facilitate physical access for the ARG to conduct inspections of reconfigured NGR trains before they are returned to passenger service;</p> <p>(e) TMR and QR consult with the ARG at least every six months on the impact of this exemption on passenger amenity and steps being taken to address areas of non-compliance; and</p> <p>(f) TMR and QR report to the Commission at least every six months during the period of this exemption on the progress of the rectification work, the impact of this exemption on passenger amenity, and the outcome of consultations with</p> |

| Provision            | Duration | Exemption sought   |
|----------------------|----------|--|
|                      |          | the ARG.   |
| DSAPT s.8.2 Boarding | 3 years  | <p>For a period of three years from the date of the Commission's decision, a manual or power assisted boarding device is only required at a single door rather than all doors of an NGR train, subject to the following conditions:</p> <p>(a) equivalent access is provided at an alternative door of the NGR train in the following circumstances:</p> <ul style="list-style-type: none"> <li>(i) if an allocated space is not available; or</li> <li>(ii) to ensure access to unique facilities; or</li> <li>(iii) to ensure a passenger can both board and alight;</li> </ul> <p>(b) TMR and QR ensures that service users can obtain information about specified boarding points at any particular rail station or infrastructure:</p> <ul style="list-style-type: none"> <li>(i) at any platform at which there is a specified boarding point;</li> <li>(ii) via QR's website and a downloadable fact sheet; and</li> <li>(iii) in person at train stations; and</li> <li>(iv) via a telephone call to the customer contact centre where available;</li> </ul> <p>(c) TMR and QR provides a written report to the Commission within six months of this decision on measures taken to ensure that staff and passengers are adequately informed of both the doors of the NGR train at which boarding devices are available and the equivalent access measures available;</p> <p>(d) the report is updated every six months, and the updated report is provided to the Commission; and</p> <p>(e) TMR makes these reports available on its website.</p> |
| DSAPT s.15.3         | 3 years  | For a period of three years from the date of the Commission's decision, if toilets are provided on an  |

| <b>Provision</b>                              | <b>Duration</b> | <b>Exemption sought</b>  |
|---|-----------------|--|
| Toilets                                       |                 | <p>NGR train, a unisex accessible toilet without airlock is not required in every accessible rail car, subject to the following conditions:</p> <p>(a) TMR concerned provides a written report to the Commission within six months of this decision on which services are affected;</p> <p>(b) TMR provides an updated version of the report to the Commission every six months; and</p> <p>(c) TMR makes these reports available on its website.</p>  |
| DSAPT, s.15.4(1)(a)<br>Dimensions of toilet   | 3 years         | <p>For a period of three years from the date of the Commission's decision, compliance with clause 15.4(1)(a) of the DSAPT is not required, subject to the following conditions:</p> <p>(a) TMR and QR undertake to progressively reconfigure (or facilitate reconfiguration of) the toilet modules in each NGR train that is to contain toilet modules;</p> <p>(b) TMR and QR facilitate physical access for the ARG to provide design input to and inspect the reconfigured toilet module before the sets with toilets are returned to passenger service;</p> <p>(c) TMR and QR consult with the ARG at least every six months on the impact of this exemption on passenger amenity and steps being taken to address areas of non-compliance; and</p> <p>(d) TMR and QR report to the Commission every six months during the period of this exemption on the progress of the rectification work, the impact of this exemption on passenger amenity, and the outcome of the consultation with the ARG.</p> |
| DSAPT s.15.4(1)(b)<br>Functionality of toilet | 3 years         | <p>For a period of three years from the date of the Commission's decision, a full side-on transfer position is not required on the existing NGR toilet subject to the following conditions:</p> <p>(a) TMR and QR will undertake to progressively rectify (or facilitate rectification of) the toilet modules in each NGR train that is to contain toilet modules to enable a full side-on transfer position;</p>  |

| Provision                | Duration       | Exemption sought   |
|--------------------------|----------------|--|
|                          |                | <p>(b) TMR and QR will facilitate physical access for the ARG to provide design input to and test the functionality of the reconfigured toilet module prior to the sets with toilets being returned to passenger service;</p> <p>(c) TMR and QR consult with the ARG at least every six months on the impact of this exemption on passenger amenity and steps being taken to address areas of non-compliance; and</p> <p>(d) TMR and QR report to the Commission at least every six months during the period of this exemption on the progress of the rectification work, the impact of this exemption on passenger amenity, and the outcome of the consultation with the ARG.</p> |
| <p>DDA, ss.23 and 24</p> | <p>3 years</p> | <p>For a period of three years from the date of the Commission's decision, to the extent that:</p> <p>(a) a matter is regulated by a section of the DSAPT;</p> <p>(b) that section is subject to an exemption granted by the Commission; and</p> <p>(c) an Applicant complies with that section as modified by the relevant temporary exemption and any conditions granted in relation to the temporary exemption,</p> <p>the Applicant is exempt in relation to that matter from the operation of sections 23 and 24 of the DDA.</p>  |

## 5. PRELIMINARY CONSIDERATIONS

### 5.1 Urgent processing requested

- (a) The Applicants require the use of the NGR fleet for the 2018 Gold Coast Commonwealth Games, which will officially commence on 4 April 2018. The use of NGR trains is integral to the Commonwealth Games timetable. In order for the NGR fleet to be ready, a period of track testing and trial operation will be required.
- (b) The NGR trains are required to replace an ageing portion of the existing QR fleet (EMU Fleet, Electrical Multiple Unit). Work is being performed to extend the life of these units to allow them to continue in service and on the network. This is increasing costs and these units will need to be retired as soon as possible.
- (c) As a result, the Applicants request an expedited consideration of this application.

### 5.2 Necessity

- (a) The matters for which the temporary exemptions are sought are not covered by other exemption provisions of the DDA or DSAPT.
- (b) QR, as a member of the Australasian Railway Association, is currently a party to a series of temporary exemptions. TMR is not a party to those exemptions.<sup>4</sup>
- (c) It is also not feasible or practical for the Applicants to rely on the "unjustifiable hardship" exemption, which can only be raised if legal proceedings are brought against the Applicants. Legal certainty is required in circumstances where the NGR trains are urgently required to replace an ageing fleet and be used for the 2018 Gold Coast Commonwealth Games.

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<sup>4</sup> <https://www.humanrights.gov.au/australasian-railway-association-ara>



## 6. REASONS FOR DSAPT EXEMPTIONS SOUGHT

### 6.1 How the proposed exemptions fit within the objects and scheme of the DDA/DSAPT

- (a) The proposed exemptions fit within the objects and scheme of the DDA by allowing an appropriate and reasonable time for TMR and QR to address areas of non-compliance with the DSAPT that have been identified (as far as possible).
- (b) The proposed exemptions will also enable TMR and QR to achieve a superior accessibility outcome compared to the current NGR configuration in an orderly way while minimising disruption to passengers and the broader rail network.
- (c) A key object of the DDA is to "eliminate, as far as possible, discrimination against persons on the ground of disability" in, among other things, the provision of goods, facilities and services. This is also reflected in the purpose set out in section 1.2 of the DSAPT.
- (d) This requirement means that discrimination should be eliminated "as far as possible", with the necessary implication that it may not be reasonable to immediately or completely eliminate discrimination in every instance.
- (e) TMR and QR support this object. With the NGR fleet as constructed, an appropriate lead-in time is required to remedy areas of non-compliance with the DSAPT (as far as possible). This can only be achieved by the temporary exemptions being granted.
- (f) The temporary exemptions, if granted, will allow TMR and QR to address holistically the accessibility of NGR trains, as the issues identified are interlinked.

### 6.2 Why immediate compliance with the DDA/DSAPT is not possible or should not be required

- (a) The NGR trains will be required to run on a narrow gauge rail track in Queensland. This necessitates that the NGR train cars have a narrow width to fit on existing infrastructure, including railway tracks and tunnels.
- (b) The narrow body width of the train also requires that a balance be struck between the proportion of the car width allocated to the toilet module's circulation space and the proportion allocated to the adjacent aisle width. Increasing the aisle width beside the toilet module will necessarily reduce the circulation space inside the toilet module and lead to further reduction in toilet compliance and

functionality. This means that in some instances, an access path no wider than 600mm is achieved.

- (c) For example, the minimum distance between the centre line of the toilet pan and the far side wall of the toilet module must be at least 1150mm. On an NGR train, this would only leave around 600mm for the adjacent corridor leading to the MA car. This corridor is required to allow crew access by QR staff, including guards.
- (d) It is not possible to use the inter-car gangway between the MA and MB cars as an access path due to the:
  - (i) significant pitching when the train is in motion; and
  - (ii) floor gradient, which does not meet the compliance requirement for a walkway.
- (e) While the gangway width is compliant for an access path, the motion and gradient issues may present a risk to some passengers with disabilities and the elderly who may attempt to reach the unisex accessible toilet module in the MB car from the MA car.
- (f) The only DSAPT-compliant solutions given these technical constraints are to either:
  - (i) provide a second toilet in the MA car, so that an access path is not required from allocated spaces in the MA car to the toilet module in the MB car; or
  - (ii) remove the toilet from the MB car altogether, which in turn no longer requires that an access path be provided between the MA car and the MB car.
- (g) Either option would take a significant length of time to implement.
- (h) The Applicants are planning to undertake rectification work to ensure compliance with the DSAPT. This process is expected to take between 18 and 36 months to complete.
- (i) In order to allow the rectification process to be undertaken without further delays, the Applicants seek that these temporary exemptions be granted as an interim measure to allow enough time to retrofit and reconfigure the NGR trains.
- (j) Although removing the toilet modules on all MB cars would allow the Applicants to achieve substantial technical compliance with the DSAPT, this would deliver an inferior overall outcome for passengers on longer journeys due to reduced passenger amenity.

- (k) This would also require that the NGR trains be returned to the manufacturer for the removal of their toilet modules, which could further delay the introduction of NGR trains to the passenger rail network. The removal of toilet modules would be unlikely to achieve a materially faster introduction of NGR trains onto the rail network compared to the undertaking of the rectification work.
- (l) The lack of temporary exemptions would also disadvantage the travelling public of Queensland due to the unavailability of urgently required new rollingstock, which is required to replace the ageing fleet currently in use for passenger rail services. It will also impact public transport for the 2018 Gold Coast Commonwealth Games.

### 6.3 **Any things done or planned by the Applicant which seek to achieve the objects of the DDA/DSAPT**

- (a) The Applicants intend to achieve compliance with the relevant sections of the DSAPT by:
  - (i) Reconfiguration of the accessible toilet module to meet dimensions and improve functionality in line with DSAPT
  - (ii) Dividing the NGR fleet in two:
    - (A) Interurban fleet of 35 trains (two toilet modules per six-car train) – adding a second unisex accessible toilet module to the MA car, so that allocated spaces and priority seats in both the MB and MA have an access path to a toilet module
    - (B) Suburban fleet of 40 trains (no toilets) – remove the unisex accessible toilet module from the MB car.
  - (iii) Reconfiguration of seating and allocated spaces in both accessible cars to meet access path width requirements between the assisted boarding door and accessible facilities.
  - (iv) Other changes which will include additional priority seating, revised train signage (wording and braille), additional grab/handrails and additional buttons and controls where appropriate to maximise functionality.
- (b) As noted, this approach will mean that passengers will not need to move through the inter-car gangway between the MA and MB cars. On the interurban fleet, both the MA and MB cars will have their own unisex accessible toilet modules, for which a DSAPT-compliant access path will be provided from the accessible spaces and priority seats.

**6.4 Any terms or conditions which further the objects of the DDA and which the Applicants are prepared to meet as a condition of being granted the exemption**

- (a) TMR and QR are intent on keeping stakeholders informed of progress towards rectification work and the retrofitting of the NGR trains. To achieve this, TMR will:
  - (i) progressively carry out the rectification work referred to above;
  - (ii) facilitate physical access for the ARG to provide design input and test the reconfigured toilet modules before they are returned to passenger service;
  - (iii) continue to consult with the ARG as set out above; and
  - (iv) report to the Commission as set out above.
- (b) In order for the Commission to obtain a better understanding of the constraints currently faced by the NGR trains, TMR are also prepared to facilitate a visual inspection by the Commission of an NGR train already delivered to Queensland.

**6.5 The results of any consultations undertaken with people who may be affected by the proposed activity and their representative organisations**

- (a) The Applicants have undertaken consultation with the disability sector during the train design process. This includes a series of consultations between QR and the ARG on the following dates; 20 August 2014, 5 November 2014, 11 February 2015, 31 March 2015 (an NGR Stage 3 mock-up consultation), 13 May 2015, 5 August 2015 (an NGR Stage 2 mock-up consultation), 26 August 2015, 18 September 2015, 25 September 2015 (assisted boarding workshop), 11 November 2015, 2 February 2016, 15 June 2016 and 5 October 2016.
- (b) More recently, TMR conducted meetings with the ARG on 26 June 2017 and 6 July 2017. A preliminary options discussion paper to canvass different accessibility options was distributed to the ARG on 18 August 2017 with a two week consultation period.
- (c) On 1 September 2017, the ARG provided its feedback to the preliminary options discussion paper (**2017 ARG Feedback**). The 2017 ARG Feedback indicated support for various measures included in the rectification work, including the reconfiguration of the seating to create DSAPT-compliant access paths, reconfiguring the internal

layout of the toilet module and adding a second unisex accessible toilet module for interurban NGR trains.

- (d) In the 2017 ARG Feedback, the ARG indicated that adding a second toilet to interurban NGR trains would be an acceptable solution when considering toilet location, while indicating its preference for a solution that included a train guard's cab in the middle of the train.
- (e) The Applicants have taken this feedback into consideration, but for a variety of reasons have concluded that adding a guard cab to the middle of NGR trains would not be appropriate. A middle guard cab with doors would impede customer access through the NGR cars, reducing the benefits of the new design. Direct assistance would still be provided to all passengers requiring it, with the QR business operating model providing for timely and reliable assistance from platform staff.
- (f) The ARG also noted in its response that NGR trains without toilet facilities would be suitable for short haul journeys but not for long-haul journeys on the Sunshine Coast and Gold Coast lines. The Applicants have also taken this into consideration, while also noting that the ARG feedback did not endorse an option requiring removal of toilets from all 75 NGR trains.
- (g) The Applicants have taken into consideration the feedback provided by the ARG in deciding on the measures to be taken in achieving DSAPT compliance. Having done so, the Applicants propose to remove toilet modules only from the suburban NGR fleet, which is to be used for short-haul journeys. This is consistent with other trains operating on suburban services. For interurban NGR trains, the Applicants propose to double the current accessible toilet facilities provided and ensure that both train cars with allocated spaces and priority seats have a direct access path to accessible toilet facilities.
- (h) In relation to the toilet module, the Applicants have taken into consideration the feedback provided by the ARG and have decided to proceed with the option recommended by the ARG.

**6.6 Information about any Action Plan developed and lodged by the Applicants in accordance with Part 3 of the DDA, including a report on the implementation of the Action Plan to date**

**TMR**

- (a) TMR released its *Disability Service Plan 2017-2020* on 27 July 2017.<sup>5</sup> This followed on from its Disability Action Plan made pursuant to the DDA, *Improving Access to 2017*<sup>6</sup> (which was reviewed in 2016).<sup>7</sup>
- (b) The Queensland Government has developed the State Disability Plan 2017-2020 *All Abilities Queensland: Opportunities for All* to support Queenslanders with disability. TMR supports this whole of government commitment.

**QR**

- (c) QR has an *Accessibility Action Plan 2014*.<sup>8</sup> The document outlines the extensive consultations undertaken by QR with disability sector contacts on a range of issues relating to the NGR project, as well as outlining QR's commitments to upgrade infrastructure, engaging with people with disabilities and working to enhance accessibility.

**6.7 The financial or other hardship which will be incurred if the exemptions are not granted**

- (a) There are compelling and sound economic and social reasons for the temporary exemption to be granted. As noted above, the NGR trains are required to replace an ageing train fleet which has reached its end of life. Further, the NGR trains are required for operation in the upcoming Gold Coast Commonwealth Games in April 2018.
- (b) Without this exemption being granted, the only manner in which the Applicants could comply with section 2.6 of the DSAPT would be to remove all toilet modules (which would further delay roll-out and prevent the preparation, testing and use of any NGR trains in time for the Commonwealth Games), or to withhold the NGR trains from service altogether. Either outcome would impose significant financial burdens on the State and deprive passengers and patrons of new trains at a time when they are critically needed.
- (c) If the temporary exemptions were granted, passengers with disabilities would also attain long term benefits from the rectification

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<sup>5</sup> <https://www.tmr.qld.gov.au/Travel-and-transport/Disability-access-and-mobility/Disability-Service-Plan>

<sup>6</sup> <https://www.tmr.qld.gov.au/Travel-and-transport/Disability-access-and-mobility/Disability-Action-Plan.aspx>

<sup>7</sup> <https://translink.com.au/travel-with-us/accessibility/disability-action-plan-review>

<sup>8</sup> [http://www.queenslandrail.com.au/Customers/Documents/QueenslandRail\\_AccessibilityActionPlan2014\\_FINAL.pdf](http://www.queenslandrail.com.au/Customers/Documents/QueenslandRail_AccessibilityActionPlan2014_FINAL.pdf)

work being undertaken. This would include further accessibility improvements that exceed the requirements of the DSAPT. These benefits would include:

- (i) doubling the toilet facilities currently offered on interurban trains, given that both train cars with allocated spaces would have DSAPT-compliant access paths provided to accessible toilet facilities instead of just one car
- (ii) the single boarding point offering superior service reliability, allowing operational consistency and making it easier for passengers with hidden disabilities to seek assistance
- (iii) additional priority seating in new locations
- (iv) improved functionality for the wall-mounted unit in the allocated spaces
- (v) adding braille to the 'Emergency Door Release' button
- (vi) new wording on the 'Priority seating' signage
- (vii) maximising functionality of grab/handrails, accessible buttons and controls

**6.8 Measures proposed to minimise or reduce any hardship which maybe faced by people with a disability and any other people affected by the proposed exemption**

- (a) There are 105 stations on QR's Citytrain network that provide unisex accessible toilets for customers (a substantial majority of the total 154 stations across the network).
- (b) A Customer Communication/Education Campaign will also be delivered to support customer awareness of assisted boarding and how to obtain assistance for the NGR trains.
- (c) QR will provide an opportunity for passengers with disabilities to view and trial the accessible toilet module prior to travel.
- (d) Finally, QR will communicate boarding locations (MA car – no toilet access or MB car - with toilet) for each station platform on the QR website so passengers who need toilet access can plan their travel for origin and destination.

7. **REASONS FOR DDA EXEMPTIONS SOUGHT**

- (a) Sections 23 and 24 are general provisions of the DDA.
- (b) The Applicants seek exemptions from these sections to the extent that they relate to issues covered by the temporary exemptions sought above. This is to prevent the temporary exemptions from the DSAPT being rendered otiose in collateral proceedings under the DDA.
- (c) The rationale for seeking the above exemptions from the DDA is otherwise the same as the reasons outlined in **section 6** for exemptions from the DSAPT.