The updated *Training Package Products Development and Endorsement Policy* (effective January 2023) has a new requirement that *“an assessment that demonstrates that the training product meets anti-discrimination legislation, and associated standards and regulations has been undertaken, including the Disability Standards for Education 2005.1”* This is referred to as an Anti-Discrimination Assessment (ADA) and is included as part of the training package product submission pack to the Training Package Assurance Body (TPAB).

This Anti-Discrimination Assessment document describes the processes to be followed and considerations that must be made during a training package product project to ensure that:

* the methods and processes used to engage and consult with stakeholders and to receive feedback from them have been inclusive
* the content of products that are reviewed and developed do not discriminate in their language, and take into consideration any requirements in the products that may discriminate
* where possible, experts have been engaged to address any potential concerns related to meeting anti-discrimination requirements.

Further information is included below.

**Checklist**

The document also includes a checklist where project managers and developers must describe the actions taken and considerations made to meet anti-discrimination requirements during their project. Each project will have an allocated ADA assessor who will then check that the processes have been properly followed by reviewing the responses in the checklist and reviewing final draft products to check these requirements have been met.

*1 Training Package Products Development and Endorsement Process Policy,* Section 5.1 Submission of draft training products to the Assurance Body, detail 13.

Purpose and application

Training products should incorporate contemporary language, for example, people/person with a disability, rather than special or additional needs, consider how the delivery of training may be supported through reasonable adjustments when creating assessment requirements, particularly performance evidence, and consider what terms are appropriate for their sector i.e., client, person, individual.

The anti-discrimination assessment (ADA) should consider the following (noting this is not an exhaustive list of considerations):

* the design of packaging rules that reduce disadvantage by providing a range of elective choices
* the inclusion of multiple entry and exit points to promote flexibility and increase access for a broad range of individuals
* whether the products limit unnecessary references to location to allow access by people in regional and remote areas
* whether the products limit the use of pre-requisites thereby limiting barriers to entry
* how foundation skills have been described and/or whether they are explicit in the products, and whether they reflect the foundation skills required for the vocational outcome
* whether the products use inclusive language
* whether the products have eliminated discriminatory language
* whether the products indirectly discriminate against a protected attribute\*. (The *Age Discrimination Act 2004, Disability Discrimination Act 1992 and Sex Discrimination Act 1984* specific areas where it is unlawful to discriminate.)

*\*The protected attributes broadly cover discrimination including race, colour, sex, sexual orientation, gender identity, relationship status, religion, age and disability (physical, intellectual, psychiatric, sensory, neurological or learning disability).*

The process on the following pages outlines some of the ways to avoid discriminatory language and tasks.

Information for project managers

Project managers (PM) should refer to and complete this document from the beginning of the project and through to its submission.

Prior to the review of existing products, take note of any language which exists that may be considered discriminatory or where reasonable adjustments may not be possible.

During the review period, consultation with stakeholders should include discussion about any problematic areas and an explanation given about the importance of the type of language which should be used and how reasonable adjustment can be included in the products.

All products must be checked against the requirements of the current legislation before signing the ADA checklist.

Once completed, it is to be checked and signed off by the ADA assessor.

This information is to be submitted in conjunction with the final submission package.

Information for training package product developers

The developer is to determine if the content of each product contains requirements that may be considered discriminatory. While it is preferred that requirements are not too prescriptive, care should also be taken about being too generic.

Non-discriminatory language is crucial especially in the areas of Foundation Skills, Performance Criteria, Performance Evidence and Assessment Conditions. Consideration should be given to:

* Foundation Skills – specifically ‘Oral Communication’. Is it critical to include? Consider someone who may be nonspeaking. Using this skill may be considered discriminatory.
* Performance Criteria and Performance Evidence – care should be taken to ensure that requirements in these areas are not too prescriptive. What is essential in the performance of the job role? Can reasonable adjustments be made?
* Assessment Conditions – are the requirements too specific? Can reasonable adjustments be made? Does the prescribed location prevent a person being able to complete the unit of competency, skill set or qualification? What alternatives can be included? For example, can the assessment be simulated or contextualised?
* Other areas to be discussed during stakeholder consultation should be prerequisites and entry requirements. Are they necessary and could they exclude an individual from completing the qualification, skill set or unit of competency?

Relevant documentation and requirements

| DOCUMENT | SECTION | ADA REQUIREMENTS |
| --- | --- | --- |
| TPPDEPP | Step 2.2Step 3.1Step 5.1 | Undertake consultationsDetermine revisionsSubmission of draft training products to the Assurance Body – Compliance with requirements |
| Training Product Submission form | 5.2 – Vulnerable and Minority Cohorts | This section of the submission requires a description of how the consultation addressed the needs of vulnerable or minority cohorts. It should include women, people with disability, culturally and linguistically diverse communities, and First Nations people. This includes a description of how the method, location and timing of consultation activities supported engagement.This section must be completed regardless of changes to the strategy over time. |
| [Age Discrimination Act 2004](https://www.legislation.gov.au/Details/C2020C00283) | Part 1 – Preliminary. S4. Simplified outlinePart 4 – Unlawful age discrimination etc. S.26 Education | Direct discrimination – treating a person less favourably in situations where age should not be consideredIndirect discrimination – imposing a condition, requirement or practice which is unreasonable and likely to disadvantageIt is unlawful to discriminate against a person on the ground of the person’s age:* By refusing to accept the person’s application as a student
* By denying the person access to any benefit provided by the educational authority (the body administering and educational institution)
* Schedule 1 Laws for which an exemption is provided -https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol\_act/ada2004174/sch1.html
 |
| [Disability Discrimination Act 1992](https://www.legislation.gov.au/Details/C2023C00355) | S4S 5 and 6 | The definition of disability in the DDA can be found in section 4 of the Act. Disability in relation to the DDA includes:* Physical
* Intellectual
* Psychiatric
* Sensory
* Neurological, and
* Learning disabilities, as well as
* Physical disfigurement.

These sections set out the types of conduct that will constitute direct and indirect disability discrimination. Direct disability discrimination is when a person with disability is treated less favourably than a person without disability * because of the disability, and
* in circumstances that are not materially different.

Indirect disability discrimination occurs when a person with disability: * is required to comply with a requirement or condition but they cannot comply because of their disability, and
* that requirement or condition is not reasonable in the circumstances.
* a failure to make reasonable adjustments to assist the person with disability to meet requirements or conditions
 |
| [Sex Discrimination Act 1984](https://www.legislation.gov.au/Details/C2023C00316) | S 5, 6 and 7 | The Sex Discrimination Act 1984 (Cth) (‘SDA’) covers discrimination on the ground of:* sex (defined in s 5);
* marital status (defined in s 6);
* pregnancy or potential pregnancy (defined in s 7); and
* family responsibilities (defined in s 7A)
 |
| [Racial Discrimination Act 1975](https://www.legislation.gov.au/Details/C2022C00366) |  | The Act makes it unlawful to discriminate against a person because of his or her race, colour, descent, national origin or ethnic origin, or immigrant status.Direct discrimination happens when a person is treated less favourably than another person in a similar situation because of his or her race, colour, descent, national or ethnic origin or immigrant status.Indirect discrimination can happen when employers or service providers put in place conditions, requirements or practices which appear to treat everyone the same, but which disadvantage some people because of their race, colour, descent, national or ethnic origin or immigrant status. If the requirement is not reasonable regarding the circumstances of the case, it could be indirect discrimination. |

Anti-discrimination assessment checklist

**Project title:** Tree Felling Project

**Project scope:** Review and, where applicable, update three tree felling units to improve their deliverability, while also supporting safety and competency. The delivery challenge identified was the number of trees required to be felled in order to demonstrate competence at a basic, intermediate and advanced level. Practice and assessment trees can be difficult to source outside of a forestry environment.

| Checklist Item | Project manager response and evidence | ADA assessor Response (insert comments where necessary) |
| --- | --- | --- |
| Have the packaging rules been designed to reduce disadvantage?*For example, the range of elective choices.* | YES [ ]  *How?* NO [ ]  *Why not?*NOT APPLICABL*E* [x] No qualifications were reviewed in this project. Three qualifications have received minor updates to incorporate the updated unit codes that resulted from this project.  | Has this requirement been adequately considered?YES [x] NO [ ] Whilst out of scope of the submitted project (i.e. to fast track review the volume of trees for assessment in Performance Evidence of 3 units of competency) much stakeholder feedback focused on the need for pre-requisite units to be added. Current qualification packaging rules at Certificate III and IV enable/allow for the packaging of felling of basic and/or intermediate tree electives where RTOs or employers may require learners to attain (more) experience before progressing to felling more complex trees. Similarly, the Certificate II qualification packaging rules enable/allow RTOs and/or employers to package units (including unnamed units) as electives that a user may consider necessary to gain skills/knowledge before undertaking felling, such as operating a chainsaw and/or cutting competently. |
| Have pre-requisites or entry requirements been limited to promote flexibility and increase access for a broad range of individuals? | YES [ ]  *How?*NO [x]  *Why not?*The units do not have prerequisites.   | Has this requirement been adequately considered?YES [x] NO [ ]  None of the 3 units being submitted in this project have prerequisite units, and the qualifications updated to add the re-coded units as electives (not reviewed) do not specify entry requirements.  |
| How have Performance Criteria, Foundation Skills, Performance Evidence and Assessment Conditions been considered with respect to anti-discrimination? | The project has primarily made changes to the Performance Evidence of the units. The language used in the units is generic, employing neutral words such as “individuals”. There have been discussions about applying simulated training environments for preliminary practice in chainsaw tree felling cutting techniques to help improve efficiency in using trees. However, the industry consensus is that, for safety grounds, this should be complemented by training practice and assessment sessions on actual trees, which adhere to the performance criteria outlined in the unit of competency, to ensure trainees gain valuable experience in real-world scenarios. | Has this requirement been adequately considered?YES [x] NO [ ]  The Assessment Conditions in particular support anti-discrimination by allowing assessment ‘to be demonstrated in the workplace or an environment that accurately represents workplace conditions.’ It is noted in the User Guide that industry recommends that simulated training ‘should be complemented by training practice and assessment sessions on actual trees, which adhere to the performance criteria outlined in the unit of competency, to ensure trainees gain valuable experience in real-world scenarios’, however as written it is possible that (training and) assessment may be undertaken in ‘an environment that represents workplace conditions.’ which provides RTOs and employers with considerable flexibility to access resources for learners. |
| Do the products use contemporary language?*For example, using people with a disability rather than ‘special needs’ or ‘additional needs’, using nonspeaking instead of nonverbal. Avoidance of acronyms like ‘ATSI’.* | YES [x]  *How?*No gender-specific words or other culturally sensitive words are incorporated in the units. Additionally, where used, acronyms are spelled out for clarity.NO [ ]  *Why not?* | Has this requirement been adequately considered?YES [x] NO [ ]  All 3 units use contemporary, non-discriminatory neutral language when describing job roles such as individuals, workers, operators, supervisors etc.  |
| Do the products limit unnecessary references to location, enabling access by people in regional and remote areas? | YES [x]  *How?*The changes to the units do not specify a location or particular task scenarios, thus limiting access by people. Moreover, the purpose of the project is to adjust the number of trees to therefore make the training more accessible to learners.NO [ ]  *Why not?* | Has this requirement been adequately considered?YES [x] NO [ ]  As per the Project Manager’s explanation, the purpose of the project was to adjust the volume of trees required for assessment to make the training and assessment more accessible for learners. The training products do not specify training or assessment methods which could limit access based on location.In addition to the flexibility of the Assessment Conditions enabling the assessment to be undertaken in a workplace or an environment representative of a workplace, the user guide provides some guidance to RTO users to maximise assess for individuals in remote and/or regional areas, such as the use of live digital video technology and/or workplace supervisors (3rd parties) to assist in the training and/or collection of evidence for an assessor to determine competency, especially in locations or regions where the physical presence of trainer and/or assessor may be impractical. |
| How have protected attributes been considered in the development of the training products?*For example, ensuring products do not indirectly discriminate against a protected attribute.* | Protected attributes have been duly considered and addressed, where identified. For instance, within the industry, the standard practice is to measure tree diameter at breast height, commonly referred to as DBH. However, when specifying the measurement point for tree diameter in the Performance Evidence of the units, it was noted that DBH can vary for each individual due to differences in height. Consequently, the measurement of DBH has been revised to a diameter measured at the point where the scarf is made. | Has this requirement been adequately considered?YES [x] NO [ ]  No references or inferences are made in the 3 units that would lead to discrimination against any of the protected attributes of sex, race, disability, gender identify, sexual orientation etc.Section 9 of the User Guide, industry recommends that training in the operation of a chainsaw, whilst not a regulated or licenced high-risk work activity, should not (but is not mandated) be conducted for individuals under 16 years of age. The Companion Volume Implementation Guide (CVIG) provides information in relation to Reasonable Adjustment and references the *Disability Standards for Education 2005.* |

**Declaration**

This Anti-discrimination assessment has been completed by Maree Thorne. The assessor is satisfied by the information provided by the project manager and the products reviewed that the training products being submitted meet, as far as practicable, relevant anti-discrimination legislation, and that evidence of processes to address, (such as avenues to raise concerns is encouraged) is reasonable and adequate.

Signature:
Date: 13 January 2024

Training products provided for assessment

Qualifications (minor updates only)

FWP40121 Certificate IV in Forest Operations

FWP30122 Certificate III in Forest Operations

FWP20122 Certificate II in Forest Operations

Units of competency

FWPCOT2275 Fell trees manually (basic)

FWPCOT3350 Fell trees manually (intermediate)

FWPCOT3351 Fell trees manually (advanced)