



Disabled
People's
Organisations
Australia

Submission

Senate Community Affairs References Committee

Inquiry: Delivery of outcomes under the National Disability
Strategy 2010-2020 to build inclusive and accessible
communities

April 2017

Publishing Information

'Disabled People's Organisations Australia (DPO Australia) Submission to the Senate Community Affairs References Committee Inquiry into the delivery of outcomes under the National Disability Strategy 2010-2020 (NDS) to build inclusive and accessible communities.'

Suggested Citation:

Sands, T., (2017) *Disabled People's Organisations Australia (DPO Australia) Submission to the Senate Community Affairs References Committee Inquiry into the delivery of outcomes under the National Disability Strategy 2010-2020 (NDS) to build inclusive and accessible communities*, Disabled People's Organisations Australia.

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1. Disabled People's Organisations Australia (DPO Australia)

Disabled People's Organisations Australia (DPO Australia) is an alliance of four national DPOs in Australia. DPOs are organisations that are governed, led by and constituted of people with disability.

The key purpose of the DPO Australia is to promote, protect and advance the human rights and freedoms of people with disability in Australia by working collaboratively on areas of shared interests, purposes and strategic priorities and opportunities.

DPO Australia is made up of four national population specific and cross-disability DPOs that have been funded by the Australian Government to represent the views of people with disability and provide advice to Government/s and other stakeholders.

The four DPO Australia members are:

[Women With Disabilities Australia \(WWDA\)](#) is the national cross-disability DPO for women and girls with all types of disabilities in Australia. It operates as a transnational human rights organisation and is run by women with disabilities, for women with disabilities. WWDA's work is grounded in a human rights based framework which links gender and disability issues to a full range of civil, political, economic, social and cultural rights.

[First Peoples Disability Network Australia \(FPDNA\)](#) is the national cross-disability DPO representing Aboriginal and Torres Strait Islander people with disability and their families. FPDNA utilises a range of strategies in its representative role, including through the provision of high-level advice to governments, and educating the government and non-government sectors about how to meet the unmet needs of Aboriginal and Torres Strait Islander people with disability.

[People with Disability Australia \(PWDA\)](#) is the national cross disability rights and advocacy organisation run by and for people with disability. Working within a human rights framework, PWDA represents the interests of people with all kinds of disability. Its primary membership is made up of people with disability and organisations primarily constituted by people with disability. It also has a large associate membership of other individuals and organisations committed to the disability rights movement.

[National Ethnic Disability Alliance \(NEDA\)](#) is the national peak organisation representing the rights and interests of people from Culturally and Linguistically Diverse (CALD/NESB) people with disability, their families and carers throughout Australia. NEDA advocates at the federal level so that CALD/NESB people with disability can participate fully in all aspects of social, economic, political and cultural life.

2. Introduction

- 2.1 DPO Australia welcomes the opportunity to provide this submission to the Senate Community Affairs References Committee inquiry into the delivery of outcomes under the National Disability Strategy 2010-2010 (NDS) to build inclusive and accessible communities.
- 2.2 DPO Australia notes that there is no comprehensive legislative, administrative, judicial or other protection of human rights in Australian domestic law,¹ such as a Bill of Rights. The NDS is the principal national strategic plan, agreed by all Australian governments, to implement the United Nations *Convention on the Rights of Persons with Disabilities* (CRPD). The NDS is critical to the realisation of the human rights of people with disability in Australia.
- 2.3 The NDS was developed following a public consultation process conducted across Australia and resulting in the 2009 report, *Shut Out: The Experience of People with Disabilities and their Families in Australia*.² This report exposed the daily experiences of stigma, discrimination, disadvantage and human rights violations that are faced by people with disability, and it underscored the critical need for the NDS as a human rights focused national strategy.
- 2.4 In 2012, DPOs and other disability representative and advocacy organisations prepared a report, *Disability Rights Now*³ for the United Nations (UN) review of Australia under the CRPD. Based on consultations across Australia with people with disability and their representative organisations, this report also highlighted the stigma, discrimination, disadvantage and human rights violations experienced by people with disability in relation to the CRPD.
- 2.5 While the NDS has brought improvements, commitment to NDS implementation continues to be critical in addressing the issues contained in both the Shut Out and Disability Rights Now reports.
- 2.6 The member organisations of DPO Australia have all engaged in the initial development of the National Disability Strategy (NDS), provided feedback and submissions for the NDS progress reports and provided input into the development

¹ UPR Disability Coordination Group, 'National Disability Strategy and implementation of the CRPD', Factsheet for Australia's Universal Periodic Review 2015 (November 2015), Australian Cross Disability Alliance.

² National People with Disabilities and Carer Council, *Shut Out: The Experience of People with Disabilities and their Families in Australia*, (2009), Commonwealth of Australia.

³ CRPD Civil Society Shadow Report Group, *Disability Rights Now – Civil society report to the United Nations Committee on the Rights of Persons with Disabilities*, August 2012, <<http://www.pwd.org.au/issues/crpd-civil-society-shadow-report-group.html>>

of the Second Implementation Plan, *Driving Action 2015-2018*.⁴

- 2.7 The member organisations that make up DPO Australia engage in a range of law and policy reform projects, advocacy activities, meetings, reference groups, inquiries and committees that cover issues and concerns directly related to the six policy outcome areas outlined in the NDS:
1. Inclusive and accessible communities
 2. Rights protection, justice and legislation
 3. Economic security
 4. Personal and community support
 5. Learning and skills
 6. Health and wellbeing
- 2.8 We have strong grassroots connections to people with disability and are constantly receiving feedback, supporting people to access disability supports, undertaking the role of Disability Support Organisations (DSOs)⁵, resourcing local support networks and facilitating engagement and consultation with people with disability.
- 2.9 We also engage with UN human rights mechanisms, including civil society parallel reporting processes to UN Treaty bodies and the Human Rights Council to assist with UN reviews of human rights in Australia.
- 2.10 This submission draws on our law and policy reform expertise, our grassroots connection to people with disability and our engagement with UN human rights mechanisms to provide our key comments in response to the inquiry's terms of reference.
- 2.11 We note that the inquiry terms of reference focus primarily on NDS policy outcome area 1, 'Inclusive and accessible communities', but our submission is written in the context that the six policy outcome areas of the NDS are inter-connected and inter-dependent, and require concerted action simultaneously in order to build inclusive and accessible communities.
- 2.12 While there has been progress and critical reform under the NDS, most notably with the implementation of the National Disability Insurance Scheme (NDIS), DPO Australia is concerned that after six and half years, the NDS is not being driven consistently across government and jurisdictions nor does it have the investment or concrete measures needed to deliver solid outcomes under the six policy outcome areas.

⁴ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, Commonwealth of Australia, <https://www.dss.gov.au/disability-and-carers/programs-services/government-international/national-disability-strategy-second-implementation-plan>

⁵ Disability Support Organisations support local peer support networks of people with disability. For more information, see e.g. <http://www.peerconnect.org.au/>

- 2.13 In responding to the terms of reference, our submission firstly outlines our key concerns and recommendations in relation to the delivery of outcomes under the NDS as a whole, and then addresses key specific concerns in relation to NDS policy outcome area 1, 'Inclusive and accessible communities'.
- 2.14 DPO Australia would welcome the opportunity to elaborate on our issues with the Senate Community Affairs References Committee.

3. National Disability Strategy

3.1 Human Rights Framework

- 3.1.1 The NDS is the key national policy framework for "protecting, promoting and fulfilling the human rights of people with disability".⁶ It has been agreed by all Australian governments as the strategy to implement the CRPD and to report to the United Nations (UN) against progress in achieving the CRPD.⁷ The NDS "adopts the principles set out in Article 3 of the CRPD"⁸ and the "six policy areas of the Strategy are aligned to the articles of the CRPD".⁹
- 3.1.2 Despite the NDS being a strategy to report to the UN against progress against the CRPD, the NDS does not reflect engagement with the UN CRPD review of Australia. The first CRPD review took place in September 2013, and the UN Committee on the Rights of Persons with Disabilities (CRPD Committee) commended Australia for the "adoption of the National Disability Strategy 2010-2020 to implement the Convention across all jurisdictions".¹⁰ However, the concluding observations or recommendations from this review have not been incorporated into concrete actions within the NDS, nor is it clear if States, Territories and Local Governments are aware of or have responded to the UN CRPD recommendations in their respective Disability Plans.
- 3.1.3 The 2014 NDS *Progress Report to the Council of Australian Governments* (2014 Progress Report) does outline that Australia participated in the UN CRPD review, but only notes some recommendations from that review, and only does this under policy outcome area 2, 'Rights protection, justice and legislation'.¹¹ This implies a lack of understanding about the integral relationship between the UN CRPD

⁶ Council of Australian Governments, *National Disability Strategy 2010-2020*, Commonwealth of Australia 2011, p. 9

⁷ Ibid, pp. 16-17

⁸ Ibid, p. 22

⁹ Ibid, p. 17

¹⁰ Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of Australia*, 10th sess, UN Doc CRPD/C/AUS/CO/1, (21 October 2013) para 4.

¹¹ Department of Social Services, *Progress Report to the Council of Australian Governments 2014*, Commonwealth of Australia, p. 37.

review and the NDS: the UN CRPD review is relevant to the entirety of the NDS, not just one policy outcome area, and the recommendations from this review cover all six policy outcome areas of the NDS. In addition, NDS progress reports aim to “inform the further development and implementation of the strategy over its ten-year life span”,¹² but the NDS Second Implementation Plan, *Driving Action 2015-2018* (Second Implementation Plan) does not propose concrete measures across the six policy outcome areas that would specifically respond to UN recommendations from the CRPD review.

- 3.1.4 The NDS should also integrate the recommendations from other UN treaty body reviews of Australia, such as those by the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and the Committee against Torture. DPOs and disability organisations actively participate in these reviews, and the concluding observations from these treaty bodies include recommendations relevant to people with disability. These should inform and be integrated into the development of NDS progress reports and implementation plans.
- 3.1.5 The Second Implementation Plan states that the NDS “is also responsive to the recommendations of the Universal Periodic Review (UPR)”,¹³ which is a human rights review conducted by the UN Human Rights Council. However, the Second Implementation Plan does not outline concrete actions to address the UPR recommendations that were provided to Australia following the November 2015 review, and it is not clear how this Plan is responsive to UPR recommendations.
- 3.1.6 While the concluding observations of UN human rights reviews are not enforceable, the lack of responsive measures to UN Review processes undermines the role of the NDS in implementing the CRPD. CRPD implementation involves, at a minimum, engagement with the CRPD treaty body that provides expertise and direction to governments for effective CRPD interpretation and implementation. This not only includes periodic reviews of Australia but also guidance on specific aspects of CRPD implementation through a range of General Comments issued regularly by the CRPD Committee. To date, the CRPD Committee has issued four General Comments on articles 6 (Women and girls with disabilities), 9 (Accessibility), 12 (Equal Recognition before the law) and 24 (Right to inclusive education).¹⁴ It is not evident that these General Comments are guiding action across the NDS at all levels of government.
- 3.1.7 The CRPD review process, as well as the UPR and other treaty body reviews, includes the active participation of DPOs and civil society to ensure that the views

¹² Ibid. p. 1

¹³ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, op.cit., p. 5.

¹⁴ These General Comments as well as draft General Comments are available on the UN website at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/GC.aspx>

of people with disability across all CRPD articles are incorporated into the CRPD Committee's deliberations. These views are compiled following a range of consultation and evidence gathering methods, and prepared into shadow or parallel reports to the UN (see 2.4). These parallel reports should be used domestically to inform the NDS. However, there is little evidence that the views of people with disability contained in these reports inform the implementation of the NDS.

- 3.1.8 UN recommendations and DPO and civil society concerns are often focused on grave and systemic human rights violations. These concerns include the ongoing practice of forced sterilisation, forced and compulsory treatment, indefinite detention of people with disability without conviction, the lack of recognition of legal capacity and violence against people with disability, particularly women and children with disability. Although urgent action needs to be implemented to address these issues, the NDS, and its Second Implementation Plan, contains few to no actions to address these issues.
- 3.1.9 Under CRPD article 33, *National implementation and monitoring*, the Department of Social Services (DSS) and the Attorney-General's Department (AGD) have been designated as the joint focal point within the Australian Government to coordinate implementation of the CRPD. However, operational responsibility for the NDS lies with DSS and it is unclear how this responsibility is connected to the clear human rights mandate and focus of the AGD. The AGD "has portfolio responsibility for driving the implementation of the government's human rights policy agenda", it "provides legal advice to the Australian Government on international human rights matters, including human rights treaties to which Australia is a party", it engages "with the United Nations human rights treaty body system" and leads "engagement with the Universal Periodic Review process".¹⁵
- 3.1.10 The Second Implementation Plan appears to be a document that highlights existing priorities within the remit of DSS (see point 3.2.9). This has created the very real risk that the NDS has become a welfare focused strategy rather than a mechanism to drive CRPD implementation across government agencies and between jurisdictions.
- 3.1.11 In March 2017, the Disability Reform Council (DRC) of the Council of Australian Governments (COAG) reaffirmed its commitment "to drive progress under the National Disability Strategy 2010-2010", and to address additional focus areas within the NDS – mental health, health and the criminal justice systems – "to ensure that these systems are effectively supporting all people with a disability in

¹⁵ Attorney-General's Department, 'Human rights and anti-discrimination', website information available at: <https://www.ag.gov.au/RightsAndProtections/HumanRights/Pages/default.aspx>

Australia”.¹⁶ While this is very welcome, DPO Australia remains concerned that the NDS appears to be confined to a disability policy responsibility within DSS, and that DSS has no authority to leverage change across Commonwealth agencies, or across different State and Territory jurisdictions.

3.1.12 Regardless of the rhetoric, it is difficult to conclude that the NDS is being implemented as a human rights policy framework that aims to implement the CRPD.

3.1.13 Recommendation:

Establish a high-level executive mechanism, such as a ‘National Office of Disability Policy Coordination’ within the Department of Prime Minister and Cabinet, to hold strategic operational responsibility for the NDS; and to leverage reform across Commonwealth agencies and in relation to the States and Territories. This mechanism must have built in human rights expertise, including in relation to Australia’s international human rights obligations to ensure that the recommendations from UN reviews are incorporated into concrete actions within the NDS.

3.2 Coordinated investment, concrete actions, accountability

3.2.1 While there has been action across governments and all jurisdictions under the NDS that has improved the human rights of people with disability, most of the focus of disability reform has been on policy outcome area 4, ‘Personal and community support’ through the implementation of the NDIS.

3.2.2 The NDIS is a critical investment in enabling people with disability to choose the supports they need to increase economic, social, cultural, civic and political participation. However, the success of the NDIS is dependent on parallel success in the other five policy areas of the NDS. For example, without accessible and inclusive transport, employment, education, health services, communications and information access, rights protection and access to justice, a person with disability will not be able to fully benefit from an NDIS funded package; they may have specialist disability supports but they will still have barriers to accessing all areas of community life.¹⁷

3.2.3 The significant focus on the NDIS has resulted in far less investment and action on the five other NDS policy outcome areas. This is despite a number of issues and actions relevant to these areas being consistently raised by DPOs and disability

¹⁶ COAG Disability Reform Council, *Communique 3 March 2017*, available at:

<<https://www.dss.gov.au/disability-and-carers/programs-services/government-international/disability-reform-council/communique-3-march-2017>>

¹⁷ DPO Australia, ‘Disabled People’s Organisations Australia (DPO Australia) Submission to the Productivity Commission Issues Paper: National Disability Insurance Scheme (NDIS) Costs’, March 2017, p. 6

advocacy organisations, including through UN review processes (see points 3.1.7 and 3.1.8), submissions to government and parliamentary inquiries,¹⁸ as well as submissions specific to NDS implementation.¹⁹

3.2.4 There have been a number of inquiries and reviews undertaken by government agencies and parliamentary committees that have provided substantial analysis of issues and recommendations for reform to address human rights issues. However, very little to no actions from these inquiries and reviews have been incorporated into the NDS. This is despite the significant effort made by people with disability, their representative organisations and advocates to provide evidence to these inquiries and reviews and to assist in formulating realistic actions and solutions. For example:²⁰

- The Australian Law Reform Commission (ALRC) reviewed equal recognition before the law and legal capacity for people with disability in line with the CRPD, and made 55 recommendations for reform.²¹

The CRPD Committee noted this review as a positive aspect of Australia's implementation of the CRPD,²² and the review was noted in the 2014 Progress Report,²³ but there are no actions contained in the Second Implementation Plan that respond to the ALRC review. The Australian Government has merely noted the ALRC final report but has not provided a comprehensive response.

- The Senate Community Affairs References Committee conducted an inquiry into violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, culturally and linguistically diverse people with disability. The

¹⁸ See e.g., Disabled People's Organisations Australia, 'Submission to the 2017/2018 Federal Budget', January 2017 <<http://dpoa.org.au/submissions/2017-18-federal-budget-priorities/>>

¹⁹ See e.g., Carolyn Frohmader, "'Gender Blind, Gender Neutral': The effectiveness of the National Disability Strategy in improving the lives of women and girls with disabilities", April 2014, Women With Disabilities Australia, <http://wwda.org.au/wp-content/uploads/2013/12/WWDA_Sub_NDS_Review2014.pdf>; People with Disability Australia, 'Membership engagement report to The Department of Social Services (DSS) regarding the implementation of the National Disability Strategy 2010-2020', April 2014, <<http://www.pwd.org.au/documents/pubs/1404-PWDAFeedback-NDS2010-2020.doc>>; National Ethnic Disability Alliance, 'Submission to the Department of Social Services National Disability Strategy 2014 Progress Report to COAG', 30 April 2014.

²⁰ Other examples include: Australian Human Rights Commission, *Equal before the law – Towards Disability Justice Strategies*, February 2014; Senate Community Affairs References Committee, 'Indefinite detention of people with cognitive and psychiatric impairment in Australia', November 2016, Commonwealth of Australia, available at: <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/IndefiniteDetention45>

²¹ Australian Law Reform Commission, 'Equality, Capacity and Disability in Commonwealth Laws', ALRC Report 124, August 2014, Commonwealth of Australia.

²² Committee on the Rights of Persons with Disabilities, op.cit., para 7

²³ Department of Social Services, *Progress Report to the Council of Australian Governments 2014*, op. cit., p.

Committee provided its final report containing 30 recommendations for reform in November 2015.²⁴

The outcome of policy direction 4 under NDS policy outcome area 2, 'Rights protection, justice and legislation', states "people with disability to be safe from violence, exploitation and neglect",²⁵ and notes that a future action is to "develop strategies to reduce violence, abuse and neglect of people with disability".²⁶ However, NDS actions to address this area, including in the Second Implementation Plan have largely focused on development and implementation of the National Plan to Reduce Violence against Women and their Children,²⁷ and although critical, this does not comprehensively address all forms of violence experienced by people with disability.

The Second Implementation Plan states that a "particular priority continues to be the development of measures to address violence against people with disability, and abuse and neglect of people with disability in institutional and residential settings".²⁸ In a footnote to this statement, it notes that the "Australian Government is currently considering the findings and recommendations" from the Senate Community Affairs References Committee inquiry.²⁹ However, in March 2017, the Australian Government's response referred to the implementation of the NDIS Quality and Safeguarding Framework as sufficient to address the inquiry's findings, and most recommendations were deferred to the responsibility of States and Territories.³⁰

3.2.5 In response to many inquiries, reviews or concerns, the Australian Government regularly refers responsibility for reform to State and Territory governments, but it is not clear if States and Territories are responding to the recommendations from

²⁴ Senate Community Affairs References Committee, 'Violence, abuse and neglect against people with disability in institutional and residential settings, including the gender and age related dimensions, and the particular situation of Aboriginal and Torres Strait Islander people with disability, culturally and linguistically diverse people with disability', November 2015, Commonwealth of Australia, available at:

<http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Report>

²⁵ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 38.

²⁶ *Ibid*, point 2.3, p. 41.

²⁷ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 40; Department of Families, Housing, Community Services and Indigenous Affairs, *Report to the Council of Australian Governments 2012*, Commonwealth of Australia, p. 70; Department of Social Services, *Progress Report to the Council of Australian Governments 2014*, op. cit., p. 103; Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, op. cit., p.41.

²⁸ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, *ibid*, p. 5.

²⁹ *Ibid*, footnote 4, p. 5.

³⁰ Australian Government, 'Australian Government response to the Senate Community Affairs References Committee report', 2 March 2017.

<http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Violence_abuse_neglect/Government_Response>

Australian government agencies and parliamentary reviews and inquiries. Importantly, the NDS is a framework agreed by all governments within Australia, and is a key mechanism through which Australia could take a leadership role to coordinate a national, uniform response to progress human rights for people with disability. For example, the 30 recommendations from the Senate Community Affairs References Committee inquiry into violence against people with disability (see point 3.2.4) should be on the agenda of the DRC of COAG in the context of its reaffirmed commitment to progress the NDS (see point 3.1.11).

- 3.2.6 Implementation of the NDS is dependent on commitment to and implementation of State, Territory and Local Government Disability Plans. However, State and Territory plans do not always correlate with the NDS. For example, the NSW Disability Inclusion Plan only focusses on four policy areas; and the consultation paper for the development of the new QLD Disability Inclusion Plan does not address NDS policy area 2, *Rights protection and justice*, nor does it articulate the purpose of the NDS and its connection to inclusion in QLD. The success of the NDS is undermined if parts of the NDS are ignored, not properly understood, and not nationally consistent. It also compromises national consistency in implementation, monitoring and evaluation frameworks, progress reporting, including in data collection, and review.
- 3.2.7 There doesn't appear to be a mechanism or process for coordinating NDS action, monitoring and evaluation across Australia, for sharing best practice or innovative initiatives, and for ensuring high level responsibility and accountability (see also point 3.1.10 and 3.1.11). The 2014 Progress Report simply outlines actions being undertaken by Commonwealth, State and Territory governments, but there is minimal to no analysis of these actions in progressing the rights of people with disability. While these actions may be having significant, positive impact, they are often limited to one jurisdiction, and are often one-off, time limited projects.
- 3.2.8 The lack of coordinated investment, concrete actions and accountability is evident in the late development of the Second Implementation Plan. This Plan was only released in December 2016, halfway through the second implementation period 2015-2018.
- 3.2.9 The Second Implementation Plan reaffirms the important role played by the NDS in "protecting, promoting and fulfilling the human rights of people with disability",³¹ but does not commit to new concrete measures across the Australian Government under the NDS six policy outcome areas. Rather its focus is largely on existing actions within the remit of DSS - NDIS transition and employment reform.
- 3.2.10 The Second Implementation Plan outlines that it will be supported by the development of an Australian Government Action Plan that will "represent the

³¹ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, p. 5.

Australian Government's commitment to tangible actions that will drive implementation of the strategy across Commonwealth portfolios between 2015 and 2018".³² It is essential that this Action Plan is an operational plan of concrete measures, timeframes and performance indicators that cover the six policy outcome areas of the NDS and that include actions across all Government agencies. Otherwise, it is unclear why another plan needs to be developed if the NDS is the national strategic plan that has been committed to by the Australian Government. Critically, responsibility and progress in developing this plan is not clear, nor how meaningful and successful this plan can be given there is only 18 months left in the 2015-2018 second plan period.

3.2.11 The reaffirmed commitment to the NDS by the DRC of COAG (see point 3.1.11), and the establishment of the National Disability and Carers Advisory Council in November 2016³³ to assist in driving the implementation of the NDS, are important and welcome. This must be supported by accountability mechanisms and coordinated investment in concrete actions across governments and jurisdictions in order to achieve full inclusion and substantive equality for people with disability across all spheres of community life and mainstream services, such as transport, education, communications and information access, jobs, rights protection and justice, housing and healthcare.

3.2.12 Recommendations:

To reflect the reaffirmed commitment to the NDS, we strongly recommend that governments at all levels:

- i) commit to and fully resource a range of specific, concrete measures, including strategies and initiatives to address justice and rights protection, universally designed housing, employment and accessibility in terms of communications, premises, transport, inclusive education and health, as well as leadership and civic participation.***
- ii) develop a mechanism to ensure that existing and emerging issues consistently raised by DPOs, disability representative and advocacy organisations are incorporated into the work of the NDS.***
- iii) ensure that findings from government reviews and parliamentary inquiries are considered by COAG for inclusion within the NDS and its implementation plans.***
- iv) develop a strengthened, nationally consistent performance, accountability and public reporting mechanism for the NDS that ensures transparent accountability measures within all levels of government to the six policy outcome areas.***

³² Ibid, p. 3.

³³ The Hon. Jane Prentice MP, 'National Disability and Carers Advisory Council announced', Media Release, 7 November 2016, <<http://janeprentice.dss.gov.au/media-releases/national-disability-and-carers-advisory-council-announced>>

3.3 Engagement with people with disability

- 3.3.1 In line with the CRPD, the NDS recognises that governments at all levels need to “work collaboratively with people with disability and their representative organisations” to implement the strategy,³⁴ and that “the expressed views, lived experience and ongoing advice of people with disability” need to be “reflected in the development of policies and programs that affect their lives”.³⁵
- 3.3.2 While there has been opportunity to provide feedback to DSS regarding the progress of the NDS and the development of the Second Implementation Plan, these opportunities often rely on one-off consultation forums and meetings, and the provision of written submissions. There is no ‘built-in’ engagement mechanism for people with disability to genuinely inform design, implementation and evaluation of the NDS.
- 3.3.3 Significant feedback by people with disability and their representative organisations is provided through NDS consultation opportunities. To a limited extent, this is reflected in the 2014 progress report under the heading, ‘Stakeholder Feedback’, which is included at the end of the each policy outcome area. Although this feedback is meant to “inform the development” of the Second Implementation Plan,³⁶ the feedback is not reflected in concrete measures within the Second Implementation Plan.
- 3.3.4 Opportunities to incorporate the views of people with disability that are provided to the UN and to other government and parliamentary inquiries have not been acted upon (see point 3.2.3).
- 3.3.5 Some State and Territory governments, such as NSW, have transferred funding for the work of independent disability representative and advocacy organisations to the Commonwealth to support the NDIS. This effectively prevents or reduces engagement opportunities for people with disability. Consultation, feedback and engagement on State and Territory disability plans, their progress and evaluation will become extremely limited. State and Territory governments will not be able to meet NDS obligations to work collaboratively with people with disability through their representative organisations.
- 3.3.6 Although the Commonwealth is currently reviewing the National Disability Advocacy Program (NDAP), there is no guarantee that this national program will significantly increase resources to support the local and State based advocacy and representative organisations that will lose State-based funding.
- 3.3.7 A Disability Ministers’ National Forum was held in February 2015 to enable

³⁴ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 67.

³⁵ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, p.16.

³⁶ Department of Social Services, *Progress Report to the Council of Australian Governments 2014*, op.cit., p. 19

“representatives of people with disability [to] engage with disability ministers from across Australia, and the Australian Local Government Association, about the ongoing implementation of the strategy”.³⁷ This Forum was welcomed by disability representative organisations as it provided an opportunity to discuss a range of topics across the six policy outcome areas of the NDS. It demonstrated COAG commitment to hearing the views of people with disability. There was a commitment to conduct this Forum every two years, but a second forum has not been held, nor is it identified as a commitment in the Second Implementation Plan.

3.3.8 Although important, formal feedback and consultation opportunities on the NDS are largely confined to DSS and disability ministers. There is little to no opportunity or mechanisms to engage specifically on NDS progress and implementation across other portfolio areas within government, despite the fact that most government agencies would have responsibilities for NDS implementation across the six policy outcome areas.

3.3.9 By contrast, the National Framework for Protecting Australia’s Children 2009-2020 contains “integrated governance arrangements that cut across government boundaries and include the non-government sector in order to plan and implement actions”.³⁸ This includes a tripartite National Framework Advisory Committee that comprises community and disability ministers with nominees from other sectors, such as health, education and justice, along with non-government representative organisations. Formal governance mechanisms are supported by working groups on specific action areas that bring together members of government and representative organisations.³⁹ A similar structure within the NDS would enhance collaboration, engagement and consultation between governments and people with disability, and build in a collaborative approach to design, implementation and evaluation of each policy outcome area.

3.3.10 Recommendations:

- i) Establish tripartite governance and advisory structures for the NDS that comprise disability ministers and nominees from other program areas, such as health, education and justice, along with representative organisations of people with disability in order to enable strengthened engagement with people with disability in NDS design, implementation and evaluation.***
- ii) Establish working groups on specific action areas within the NDS six policy outcome areas, which comprise both government and representative organisations in order to work collaboratively to progress NDS***

³⁷ Ibid, p. 20; Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, p. iii.

³⁸ Council of Australian Governments, *Protecting Children is Everyone’s Business – National Framework for Protecting Australia’s Children 2009-2020*, Commonwealth of Australia 2009, p. 35.

³⁹ Ibid.

implementation and review.

- iii) Establish a policy engagement framework that enables people with disability and their representative organisations to be consulted and provide feedback on legislation and policy that affects their lives.***

3.4 Diversity and intersectionality

3.4.1 The NDS recognises that people with disability are not a homogenous group,⁴⁰ that there is broad diversity among people with disability⁴¹ and that multiple dimensions of a person's identity, or intersectionality will impact on the specific lived experience of people with disability.⁴²

3.4.2 Despite recognition of diversity and intersectionality, there are very few concrete and specific measures to address this, aside from the critical focus on Aboriginal and Torres Strait Islander people with disability⁴³ (see 3.4.3). For example:

- In its submission to inform the development of the 2014 Progress Report, Women With Disabilities Australia (WWDA) comprehensively outlined that “all aspects of the NDS are completely ungendered and ignore gender equality”.⁴⁴ WWDA highlighted that this significantly limits the NDS in progressing the human rights of women and girls with disability, and outlined key priority issues that are absent from the NDS, such as sexual and reproductive rights. WWDA recommended that the second and third implementation plans under the NDS incorporate the issues and concerns of women and girls with disability along with gender specific, targeted measures. This is not evident in the Second Implementation Plan.
- The submission made by the National Ethnic Disability Alliance (NEDA) outlined the need for concerted efforts to engage with culturally and linguistically diverse (CaLD) and / or non-English speaking background (NESB) people with disability.⁴⁵ NEDA also highlighted specific areas that are not addressed by targeted actions within the NDS, such as employment strategies for CaLD / NESB people with disability, the lack of transcultural mental health services and the need for information about government services to be available in preferred community languages. However, the Second Implementation Plan does not address these issues.

3.4.3 DPO Australia supports the specific focus on “overcoming Indigenous

⁴⁰ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 14.

⁴¹ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, p. 5.

⁴² *Ibid*, p. 6.

⁴³ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 25.

⁴⁴ Carolyn Frohmader, *op. cit.*, p. 5.

⁴⁵ National Ethnic Disability Alliance, *op. cit.*

disadvantage” within the NDS⁴⁶ and the commitment made by COAG to “both Closing the Gap and the National Disability Strategy”.⁴⁷ We welcome the commitment in the Second Implementation Plan for the development of an Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability.⁴⁸ This plan aims to support the implementation of the Second Implementation Plan, it sits alongside the Australian Government Action Plan and it identifies “tangible actions to improve outcomes for Aboriginal and Torres Strait Islander people with disability across Commonwealth areas of responsibility.”⁴⁹

However, we note that this plan has been in development for the past few years, and it is not clear when it will be finalised. During this same period, First Peoples Disability Network (FPDN) have been conducting participatory research with Aboriginal and Torres Strait Islander people with disability that provides evidence and preliminary data that should underpin the NDS Aboriginal and Torres Strait Islander plan as well as influence other national Indigenous plans.⁵⁰ Given there is only 18 months left in the 2015-2018 NDS second implementation phase, it is unclear how the Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability can successfully achieve its aims.

3.4.4 Recommendations:

- i) Establish engagement mechanisms to ensure actions and concrete measures under the NDS are inclusive and responsive to the issues and concerns of diverse groups, including Aboriginal and Torres Strait Islander people with disability, women with disability, children and young people with disability and people from Culturally and Linguistically Diverse/Non English Speaking Backgrounds with disability.***
- ii) Convene and resource a working group comprised of FPDN, DSS and Prime Minister and Cabinet to revise the current draft Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability in order to ensure it responds to emerging evidence, that it intersects with other national Indigenous plans and that it is sustainable beyond the 2015-2018 period.***

⁴⁶ Council of Australian Governments, *National Disability Strategy 2010-2020*, p. 25.

⁴⁷ Department of Social Services, *2010-2020 National Disability Strategy – Second Implementation Plan, Driving Action 2015-2018*, p. 33.

⁴⁸ *Ibid*, p. 32.

⁴⁹ *Ibid*.

⁵⁰ This information was outlined at the Redfern Statement Disability Workshop conducted by FPDN on Tuesday 1 May 2017.

4. Inclusive and accessible communities

- 4.1 The first NDS outcome area is ‘Inclusive and accessible communities’. This first outcome area is largely the focus of this Senate inquiry’s first term of reference:
- “a. the planning, design, management, and regulation of:
- i. the built and natural environment, including commercial premises, housing, public spaces and amenities,
 - ii. transport services and infrastructure, and
 - iii. communication and information systems, including Australian electronic media and the emerging Internet of things”.
- 4.2 DPO Australia continues to emphasise that “access to the built environment, telecommunications, our communities, services, premises and transport is critical for people with disability to participate fully in the economic, social and cultural life of our communities”.⁵¹
- 4.3 While the NDS has progressed improvements in this area, people with disability continue to regularly report barriers to accessing buildings, transport, facilities and communication and information systems:
- “Footpaths are poorly designed, essential services such as doctors and dentists are located within inaccessible premises, many public transport networks remain inaccessible and accessible toilets are often not available in public venues. Information on public services is often inadequate, unreliable, and not provided in accessible and alternate format, and there is no text based option to communicate with 000 emergency services. Captioning quotas on both free-to-air and subscription television continue to restrict access to news, information and entertainment for those who rely on captions; and there is no audio description provided at all on television in Australia.”⁵²
- 4.4 In 2010-11, the Australian Government invested in “an accessibility package of initiatives” as part of the NDS.⁵³ The package consisted of six initiatives – Accessible Communities Program; Cinema Access Implementation Plan; Increasing Accessibility Library Initiative; Leaders for Tomorrow; Liveable Housing Design; and Ramp Up website. However, except for Liveable Housing Design, DSS notes that these initiatives “have been completed”,⁵⁴ but there appears to be no new accessibility

⁵¹ DPO Australia, ‘Disabled People’s Organisations Australia (DPO Australia) Submission to the 2017/2018 Federal Budget’, p. 15; Australian Cross Disability Alliance, ‘Election Policy Platform – Building a Disability Inclusive Australia’, June 2016, p. 11.

⁵² DPO Australia, op. cit., p. 15.

⁵³ Department of Social Services, ‘National Disability Strategy Initiatives’, DSS website:

<<https://www.dss.gov.au/our-responsibilities/disability-and-carers/program-services/government-international/national-disability-strategy-initiatives> >

⁵⁴ Ibid.

initiatives to progress or build on this work and / or focus on additional areas.

- 4.5 Although ‘completed’, the Accessible Communities Program provides a good practice example of the Australian Government taking a leadership role in driving the NDS across local governments to increase accessibility for people with disability in their local communities.⁵⁵ Under this Program, the Australian government provided a ‘matching grant’ to local councils to undertake projects to increase access and participation of people with disability in their local community, such as installing accessible toilets in a local park, making local buildings accessible and creating accessible playgrounds. To be eligible for the grant, Councils had to provide evidence that they consulted with people with disability and had their support for projects. Local councils had the ability to drive innovation and trial new ideas, and it particularly assisted poorer resourced councils. Rather than being a one-off grants program, the Accessible Communities Program, or a similar program should continue to be an ongoing measure under the NDS.
- 4.6 The ‘completion’ of the Ramp Up website in 2014 has left “no dedicated portal or programming voice within any ABC platform for disability”.⁵⁶ There was strong reaction from the disability community to the end of Ramp Up, and people with disability continue to express the need for a visible presence on the public broadcaster. There is a clear need for the ABC to follow the lead of the BBC and Channel 4 in the UK. Both have made strong statements about inclusion of people with disability in general programming and other specific measures. The BBC has long supported the Ouch portal that includes a weekly podcast, videos and written pieces about all aspects of disability.⁵⁷ They have also made commitments to including people with disability across all program content. Channel 4 announced 2016 as its Year of Disability and along with its 360° Diversity Charter has developed a range of measures to help deliver more diversity, on and off screen.⁵⁸
- 4.7 While DSS notes that “the Liveable Housing Design initiative provides ongoing guidance for the residential design and construction industry”,⁵⁹ this initiative has not been successful in driving reform within the housing industry. The aspirational, voluntary targets developed as part of the Liveable Housing Design initiative are far from being met, with less than 5% of the minimum access targets expected to be met by 2020.⁶⁰ The crisis in housing affordability and accessibility is evident in the roll out of the NDIS, and the Joint Standing Committee on the NDIS recommended greater

⁵⁵ People with Disability Australia, ‘Submission to the Willing to Work: National Inquiry into Employment Discrimination against Older Australians and Australians with Disability’, December 2015, para 17.

⁵⁶ DPO Australia, op. cit., p. 16.

⁵⁷ BBC Radio, Ouch: Disability Talk, <<http://www.bbc.co.uk/programmes/p02r6yqw>>

⁵⁸ Channel 4, <<http://www.channel4.com/info/press/news/channel-4-launches-360-diversity-charter>>

⁵⁹ Department of Social Services, ‘National Disability Strategy Initiatives’, op. cit.

⁶⁰ Margaret Ward & Michael Fox, ‘Proposal for Change: Accessibility in housing – To provide for accessibility in all new housing’, (2016) Australian Network for Universal Housing Design, & Rights & Inclusion Australia, p.

regulation to ensure all new housing is compliant with an updated Building Code of Australia.⁶¹ The issue of affordable, accessible housing is not just confined to the NDIS, but it is an issue for all people with disability and those who are aging. In order to ensure the COAG commitment to universal housing design in the NDS is met, there needs to be urgent COAG consideration of changing voluntary self-regulation to support for regulatory intervention within the National Construction Code.

- 4.8 The Disability Standards for Accessible Public Transport (DSAPT) and the Disability (Access to Premises – Buildings) Standards aim to provide people with disability with equitable and dignified access to public transport and public buildings and provide certainty to industry that they are complying with the Disability Discrimination Act 1992 (DDA). The current reviews of both the DSAPT and Access to Premises Standards are critical, but there have been tight consultation timeframes and no mechanism to negotiate differing views across sectors, including the disability, design, certification, anti-discrimination and government sectors to ensure the reviews deliver increased consistency of application and greater compliance, and to minimise ambiguity about how Standards work in relation to other legislation, policies and frameworks in Australia.⁶²
- 4.9 There is currently no coordinated mechanism for monitoring implementation of DSAPT and the Access to Premises Standards, and this makes it extremely difficult to measure progress at the national level. This is exacerbated by the lack of both quantitative and qualitative data and the lack of compliance measures, both of which impact on the ability to review, evaluate and implement changes.⁶³ A coordination mechanism with access to rigorous data could publicly report on progress in achieving the DSAPT and the Access to Premises Standards.
- 4.10 It is becoming increasingly common for the internet to be the sole method to access information and goods and services, yet website inaccessibility continues to be an issue for people with disability. Some people with disability do not have direct access to the internet, and existing and emerging technological developments in media, telecommunications IT devices and applications are not always accessible.
- 4.11 States, Territory and Local Council Disability Plans are critical to achieving inclusive and accessible communities (see 3.2.6), but there is no coordinated way to drive this work across these levels of government. Good practice exists, for example in NSW, where the NSW Disability Inclusion Act 2014 requires the NSW State Government, and its agencies, as well as Local Councils to develop Disability Inclusion Action Plans

⁶¹ Joint Standing Committee on the NDIS, 'Accommodation for people with disabilities and the NDIS', 5 May 2016, Commonwealth of Australia, p. xi, <http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/JNDIS-44th/NDIS_accommodation/Report>

⁶² DPO Australia, op. cit., p. 15

⁶³ People with Disability Australia, 'Submission to the Review of the Disability (Access to Premises – Building) Standards 2010 Discussion Paper April 2015', 15 June 2015, p. 8.

(DIAPs). A collaborative approach between the NSW Government and Local Government NSW has resulted in the development of guidelines to support the development of DIAPs.⁶⁴

4.12 Recommendations:

- i) Commit to investment in accessibility initiatives that sustain innovative action and measures at the local government level in order to increase accessibility for people with disability in their local communities.***
- ii) Resource a series of targeted working groups with people with disability and their representative organisations to identify concrete measures for inclusion in the NDS to address the barriers to achieving NDS policy outcome area 1, including in relation to the built and natural environment, transport and accessible communications, captioning and audio description.***
- iii) Commit to investment and support to the ABC to establish a dedicated disability online portal or programming voice within the ABC, to meet the obligations of the ABC Charter in respect of disability, such as a multi-media news, opinion and podcast portal to build on the work of ABC Ramp Up.***
- iv) Commit to regulatory intervention for universal housing design in the National Construction Code in line with the proposal developed by the Australian Network for Universal Housing Design and Rights & Inclusion Australia.***
- v) Establish National Expert Advisory groups made up of cross-sector representatives for each of the review processes of Accessible Public Transport and the Access to Premises Standards to facilitate effective negotiation that leads to enhanced transport and premises access for people with disability.***
- vi) Establish a coordination mechanism for monitoring implementation of DSAPT and the Access to Premises Standards, and which is informed by rigorous data and compliance measures, and that can publicly report on progress in achieving the DSAPT and the Access to Premises Standards.***
- vii) Engage with State & Territory and Local Government authorities to develop nationally consistent guidelines for disability inclusion action planning.***



⁶⁴ Local Government NSW & Family & Community Services, NSW Disability Inclusion Action Planning Guidelines, Local Government, November 2015.