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Specialist Disability Accommodation Pricing and Payments Framework Review

Department of Social Services

via [engage.dss.gov.au](http://engage.dss.gov.au)

To whom it may concern

### Specialist Disability Accommodation Pricing and Payments Framework Review 2018

People with Disability Australia (PWDA) welcomes the opportunity to make comments on the Specialist Disability Accommodation Pricing and Payments Framework Review 2018 Discussion Paper (the Discussion Paper).

Within this review process we have contributed to and endorsed the joint submission coordinated by the Summer Foundation. The Summer Foundation fully discusses issues raised in the Discussion Paper, and in this letter, we have provided additional commentary on the theme of Choice and Control.

We focus our comments on compliance with the Convention on the Rights of Persons with Disabilities (CRPD), rather than the specific technical aspects of pricing and payments. These rights are primarily covered in CRPD Article 19, Living independently and being included in the community. CRPD Article 19 requires recognition of the “equal right of all persons with disability to live in the community, and participate in the community life, with choices equal to others”.[[1]](#footnote-1)

The limited consultation period prevents PWDA from providing a fuller response to the Discussion Paper, but we have attached our position paper on CRPD Article 19 that underpins the points we make here. [Attachment A]

## Policy context

The Convention on the Rights of Persons with Disabilities (CRPD) recognises the human right of people with disability “to live in the community, with choices equal to others, and… choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement…; [with] access to a range of in-home, residential and other community support services…”[[2]](#footnote-2)

The National Disability Insurance Scheme Act 2013 (NDIS Act) was written and enacted to deliver part of the National Disability Strategy (NDS) and some CRPD rights. The NDIS Act contains objects and principles that emphasise choice and control and the right of people with disability to live independently in the community on the same basis as every Australian. Specialist Disability Accommodation (SDA) plays an important part in making these principles a reality, by facilitating choices in individual housing needs.

The implementation of SDA occurs against the backdrop of an ongoing crisis in housing affordability, highly limited growth in social housing, and a rental market that excludes the vast majority of people in receipt of the Disability Support Pension from all major cities in Australia.[[3]](#footnote-3) This further reinforces the need for SDA, as without it the mainstream accommodation market is unlikely to deliver what is needed for people with disability to achieve the goals contained in their NDIS plans.

To support the goals and principles of the NDIS, the Specialist Disability Accommodation Pricing and Payments Framework (SDA Framework) needs to be changed to deliver a rapid increase in new stock that meets the needs of people with disability, while also encouraging innovation and investment. It must be designed to deliver the choice and control that people with disability expect and deserve from the NDIS.

Currently the SDA Framework is not delivering this promise at a scale that we would have hoped to see at this stage of the implementation of the NDIS.

## Living independently in the community

Living independently in the community is a key human right, one that is bound up with a range of other positive outcomes for people with disability. It increases quality of life, and social and economic participation, and decreases poverty and the occurrence of mental health issues associated with loneliness. Institutional living is also a key accelerator or facilitator of abuse, neglect and exploitation of persons with disability. These were all key considerations in the establishment of the NDIS in general and the SDA in particular.

Historically, people with disability have frequently had their housing choices constrained for a number of reasons including:

* low income
* tying specialist disability support to accommodation facilities
* institutionalisation and segregation
* inaccessible buildings.

The NDIS is designed to address these issues and provide choice and control over where and how disability supports are provided. Breaking the link between accommodation and support is a key element in realising the goals of the NDIS.

Many people with disability, who were once compelled to live in institutional settings (of various kinds, including large residential institutions and group homes), are now seeking to live in housing in the community, either independently or with people that they choose. However, people with disability are not being provided with the level of choice and control that the SDA was intended to deliver.

This is evident in the statements from the 2015 SDA Framework and the 2018 SDA Investor and Provider Brief that outline a clear bias towards shared housing arrangements, and the outdated option of ‘group home’ is still contained within the SDA base price table for new SDA builds.

This means that SDA is currently operating in a way that reinforces legacy accommodation options, primarily through building group homes, and restricting funding decision that result in shared group housing arrangements that do not align with individual choice and control. These new group homes may have a modern feel and design, but all of the problems associated with congregated and segregated accommodation are still present.

We are concerned that if changes are not made to the SDA Framework and its associated policy documents, this will shape the future of the SDA market and mean that individualised accommodation that delivers true choice and control will be the exception, and not the rule.

## Case Studies

The following case studies highlight key challenges that are emerging in the implementation of the SDA.

### Boarding houses in NSW

In NSW, in addition to existing group homes getting funded under legacy stock arrangements and pricing, assisted boarding houses are registering as SDA providers. Assisted boarding houses are places that provide a lower level of support than a group home, but usually house a larger number of residents. In NSW they are governed by the Boarding Houses Act (NSW) 2012 (BHAct). Boarding houses established for the purpose of accommodating people with disability (defined under the BHAct, as assisted boarding houses for persons with additional needs) in congregate models do not uphold the human rights principles articulated under the CRPD. In many instances, boarding houses have been found to facilitate an environment where violence, abuse and neglect flourish. Therefore boarding houses, and any form of congregate accommodation, should not be funded or registered through SDA and the SDA Framework needs to be amended to reflect this.

### Building new SDA homes in Queensland

A family member was working with a person with disability to design a dwelling with a second granny flat style dwelling on the same site for a family member to reside. The planning process for the buildings took place over a period of two years and the family engaged with local NDIA representatives to make sure that the dwelling would have a strong chance of being enrolled in the SDA. All parts of the plans were discussed in detail. As this building was the first new build in the area, a liaison officer was assigned to ensure that the process went smoothly. Despite specifically raising the issue of the family member living in the granny flat dwelling, the NDIA gave consistent reassurances that this wouldn’t affect enrolment for SDA purposes. After the building was completed and going through final certification with the local planning authority, the NDIA then made it clear that the presence of the granny flat for a family member would likely result in the buildings not being enrolled in for SDA. This change in policy advice at the last minute was devastating to the person with disability and their family. This demonstrates the policy framework requires greater consistency and integrity to allow for more SDA dwellings to be built.

We are aware that the process for designing, building and enrolling a dwelling in the SDA is unclear and inconsistently understood by participants, the NDIA and builders. This decision making process is stifling the development of innovative new SDA dwellings. The Queensland case study also raises the issue of the limitations of family members being able to reside in an SDA dwelling or on the same parcel of land. While PWDA recognises that the SDA framework should deliver models of housing that are sustainable and meet the needs of a person with disability, and not the desires of parents and grandparents, the current rule limits people from making a choice to live with family members, including older generations of their family. We are aware of other cases where people with disability have been given the option to use land that also contains their parents’ house to build otherwise SDA complaint buildings. In some cases this has been seen as preferable as the person’s parents provide informal childcare to the person’s children.

SDA processes, as they currently operate, do not provide for certainty for people with disability in achieving their NDIS goals. The idea of some form of provisional acceptance as SDA eligibility for people with disability who have enrolled in the NDIS has been raised as a possible solution during some of the face-to-face consultations that have been held as part of this consultation. We support the exploration of this idea and would welcome further consultation on this proposal as part of any changes that are made to the SDA Framework. This would provide certainty to people with disability and allow them to work with developers and providers to identify housing that meets their needs more appropriately.

The SDA Framework and its associated policies, frameworks and legislative instruments must be provided in a way that all participants in the NDIS can understand. This must be in addition to providing clarity and simplification of the process. Plain language and easy read documentation must be available to people with disability and those who help people with disability navigate the NDIS.

## Recommendations

### Recommendation 1:

That the SDA Framework prioritises and facilitates genuine choice and control for people with disability and promotes the rights of people with disability over any other stakeholders.

### Recommendation 2:

That the SDA Framework clarifies that SDA should not be used to fund congregate and segregated accommodation, including assisted boarding houses; and that these forms of accommodation should not be able to be registered to provide SDA.

### Recommendation 3:

That a process be developed to provide people with disability with provisional eligibility for SDA, and that further consultation with people with disability and other stakeholders be undertaken.

### Recommendation 4:

That the SDA Framework be amended to allow for situations where people with disability choose to live on the same parcel of land as other family members, including other generations of their family.

### Recommendation 5:

That greater clarity and consistency of SDA be achieved through a review of all related policies and guides, and that a comprehensive training and communications plan for all NDIA and community partner staff be developed and implemented as part of that review.

### Recommendation 6:

That all SDA related material be made available in accessible, plain language and easy read formats.

Thank you for the opportunity to provide our input to this review of the SDA Framework. Please don’t hesitate to contact me for any further information.

Sincerely



Therese Sands

Co-Chief Executive Officer

1. French, P., *Accommodating Human Rights: A human rights perspective on housing, and housing and support, for persons with disability,* People with Disability Australia, 2009 [↑](#footnote-ref-1)
2. Article 19, Convention on the Rights of Persons with Disabilities, ratified by Australia in 2008 <http://www.un.org/disabilities/convention/conventionfull.shtml> [↑](#footnote-ref-2)
3. Anglicare Australia 2018. ‘Rental Affordability Snapshot 2018.’ Anglicare Australia: Canberra [↑](#footnote-ref-3)