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**People with Disability Australia (PWDA)**

**NSW Disability Inclusion Plan**

**Submission**

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# About People with Disability Australia

1. People with Disability Australia (PWDA) is a leading disability rights, advocacy and representative organisation of and for all people with disability. We are the only national, cross-disability organisation - we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation.
2. PWDA’s primary membership is made up of people with disability and organisations primarily constituted by people with disability. PWDA also has a large associate membership of other individuals and organisations committed to the disability rights movement.
3. We have a vision of a socially just, accessible, and inclusive community, in which the human rights, citizenship, contribution, potential and diversity of all people with disability are recognised, respected and celebrated. PWDA was founded in 1981, the International Year of Disabled Persons, to provide people with disability with a voice of our own.

# Introduction

1. At this time of significant change within disability policy and service delivery in Australia, PWDA welcome the NSW Government consultation into the development of the new NSW Disability Inclusion Plan. It is critical that during this period of transition, people with disability are at the centre of decision making and policy development.
2. PWDA have provided input on the specifics of the Discussion Draft through the NSW Disability Network Forum. This submission focuses on some of the overarching aspects that will be fundamental to the success of the NSW Disability Inclusion Plan.
3. Reforms already underway in NSW include many aspects necessary to facilitate inclusion for people with disability. The Ready Together and Living My Way Frameworks recognise that choice and control in the design and delivery of disability support and services is essential to how effective these services are in meeting the needs and preferences of people with disability.
4. The National Disability Insurance Scheme (NDIS) takes this person-centred provision of disability support one step further. However, successful transition to the NDIS is dependent not only on the flexibility and responsiveness of disability service providers, but also requires a significant shift in the provision of mainstream services and supports to meet the needs of all people with disability in NSW.
5. With the roll-out of the NDIS over the next 5 years, approximately 140,000 people in NSW will become eligible for dedicated, individualised funding which allows them to purchase the supports they need. For many, this will be life-changing, as long as the disability services providing these supports are diverse, responsive and regulated to ensure the fulfilment of their human rights.
6. However, this 140,000 people represents only 10% of people with disability in NSW. With the withdrawal of the Department of Ageing, Disability and Home Care (ADHC) by 2018, 90% of people with disability in NSW will be entirely dependent on mainstream government agencies to meet their needs.
7. The NSW Government has a significant task ahead to ensure that all Government departments and mainstream services are equipped and adequately resourced to step up.

# Recommendations

* The NSW Government undertake a comprehensive evaluation of progress made under the NSW Implementation Plan 2012-2014 and release this report for public feedback ASAP. The report, and subsequent feedback should feed directly into the development of the NSW Disability Inclusion Plan.
* That the NSW Disability Inclusion Plan, and its Monitoring and Evaluation Framework be structured under the six outcome areas of the National Disability Strategy. Subsequently, that all Disability Inclusion Action Plans also be required to directly address initiatives under each of the outcome areas.
* That all disability inclusion action planning in NSW be completed by 2016, including planning at the local government level.
* That recurrent, dedicated resources be committed to the achievement of activities under the NSW Disability Inclusion Plan and that these resources are available across all levels of Government to also facilitate the implementation of activities under Disability Inclusion Action Plans.
* The NSW Government retain some element of disability service delivery funding, in order to maintain provision of services of last resort when needed.
* The NSW Government maintain the office of a Minister for Disability Inclusion, with responsibility for oversight of activities related to the Disability Inclusion Plan.
* The NSW Disability Inclusion Plan clearly identify the lead agencies, departments and partners involved in achievement of activities. At a local government and agency level, Disability Inclusion Action Plans should assign responsibility of achievement of outcomes at a senior management level, and this accountability be reflected in performance expectations.
* The Disability Inclusion Plan identifies targets for employment of people with disability across the public sector, and data on progress made towards these targets is included in annual Disability Inclusion Plan reporting.
* All NSW Government departments’ preference suppliers who meet defined targets for inclusive employment of people with disability.
* All public sector employees required to complete human rights training, which is developed and delivered by an experienced disability rights organisation.
* A Consultation Framework be developed to support disability inclusion planning in NSW, which clearly articulates the expectations and processes through which people with disability and their representative organisations will be consulted throughout the development and monitoring of plans.
* The Disability Inclusion Plan identify the essential role that independent advocacy, independent information and representative organisations have to play in the development and implementation of the Disability Inclusion Plan, and provide for appropriate, recurrent resources for these organisations to continue their role promoting inclusion for people with disability.
* Disability Inclusion Action Plans at all level of Government and across all agencies have a formal, accessible mechanism through which people with disability and their representative organisations can provide ongoing feedback.
* A report be publically released annually which summarizes progress made towards targets identified in the Disability Inclusion Plan. The report should identify where additional efforts are needed in order for milestones and targets to be reached. This report should be published in accessible formats.
* All Government departments include targets in their Disability Inclusion Action Plans for all communication and publications to be accessible and provided in appropriate formats for people with disability. This should be an immediate requirement for all resources associated with the NSW Disability Inclusion Plan.
* That the office of the Minister for Disability Inclusion be responsible for establishing a comprehensive Monitoring and Evaluation Framework for the DIP, and that this Framework have clear expectations for reporting outcomes and achievements across all levels of Government.
* Monitoring and evaluation of the Disability Inclusion Plan be undertaken by an independent body which is adequately resourced to report on progress annually and make ongoing recommendations regarding changes to the plan to improve outcomes for people with disability.

# The Disability Inclusion Plan’s place in National disability policy

1. The National Disability Strategy (NDS) is the Commonwealth of Australian Government (COAG) mechanism through which Australia will progressively implement the UN Convention on the Rights of People with Disabilities (CRPD).
2. The current NSW Implementation Plan 2012-2014 (Implementation Plan) identifies strategies under the six outcome areas of the NDS, with direct link to the CRPD. This uniformity across policy at the national and state level is essential to adequately track progress towards overarching goals and priorities, linked to consistent national monitoring and evaluation frameworks. In addition, the Implementation Plan identifies the lead agencies and partners responsible for the delivery of initiatives under each of the six outcome areas, and guidelines developed for Disability Action Plans (DAP) for each government department and statutory body were specifically designed to align the NSW DAP, the Implementation Plan, the NDS and the CRPD.
3. To date, a comprehensive evaluation report of progress made under the current Implementation Plan has not be released, and this must be prioritised. This report is essential to identify where progress has been made under current initiatives and strategies, and inform all levels of Government where greater focus is needed.
4. Given that the new NSW Disability Inclusion Plan (DIP) is to replace the Implementation Plan as the policy framework for implementation of the CRPD and the NDS, the Implementation Plan evaluation and report must feed directly into DIP development. This is the only way to ensure that the DIP builds on initiatives that are delivering the desired outcomes for people with disability, prioritises gaps and identifies new strategies now needed given the changing disability landscape.

**Recommendation:**

The NSW Government undertake a comprehensive evaluation of progress made under the NSW Implementation Plan 2012-2014 and release this report for public feedback ASAP. The report, and subsequent feedback should feed directly into the development of the NSW Disability Inclusion Plan.

# The structure of the Disability Inclusion Plan

1. The DIP must be structured under the six outcome areas of the NDS in order to maintain efforts focused on identified state and national priorities. All of the six outcomes areas are of critical importance to inclusion of people with disability, the responsibility for which lies with multiple agencies across Government.
2. Outcome areas of Learning and Skills, Health and Well-being, Rights Protection, justice and legislation and Personal and Community Support are not covered under the four areas of focus identified in the DIP discussion paper.
3. In the new NDIS environment the responsibility for disability service provision moves away from the NSW Government. However, the state is not absolved of its responsibility to ensure inclusion across all mainstream services, including justice, health and education. The real commitment to inclusion of people with disability in NSW lies in securing changes across all aspects of life.
4. In addition, whilst the provision of disability specific support services may be funded through the NDIS, there is no clarity regarding the provision of other community support services currently provided to people with disability, for example support for people with disability under the age of 65 who receive Homecare services. For some people with disability, it is these services that are essential to enabling their inclusion in economic and social opportunities.
5. The responsibility for continuation of these personal and community support services to those people who need them therefore remains with the NSW Government until such time that provision for the services for all who need them is made under the NDIS.
6. If critical outcome areas are omitted from the structure of the DIP, then activities under these areas may not be prioritised, or built upon from the current Implementation Plan evaluation.

**Disability Inclusion Action Plans (DIAPS)**

1. All Government departments and agencies are required to develop Disability Inclusion Action Plans (DIAPS), and it is essential that these feed directly and coherently into the NSW DIP, with targets, monitoring, evaluation and accountability of DIAPS linked to the priority areas identified in the NDS.
2. Having the six outcome areas in the DIP provides the framework under which DIAPS can be developed, and will prompt agencies, particularly at a local government level, to consider how their activities will address inclusion for people with disability across all the outcome areas.
3. In addition, having uniformity of structure against the six outcome areas of the NDS provides for a better structure for integration of plans across department and agencies, and sharing of best practice across priority areas at the local level.
4. The Discussion Paper states that local governments are required to have their DIAPS in place by 2017. Considering that local governments in NSW already have disability plans in place to varying degree, this extended timeline is unnecessary. Given that both the DIP and DIAPS are meant to be dynamic documents that can adapt to the changing environment, local government plans should be completed by 2016.

**Recommendation:**

That the NSW DIP, and its Monitoring and Evaluation Framework be structured under the six outcome areas of the NDS. Subsequently, that all DIAPS also be required to directly address initiatives under each of the outcomes area.

That all disability inclusion action planning in NSW be completed by 2016, including planning at the local government level.

# Activities integral to the Disability Inclusion Plan

1. The NSW Inclusion Act 2014 and its associated regulation makes provision only for the existence of the NSW DIP and Government and Local Council DIAPS.
2. However neither the Act nor the DIP Discussion Paper provide for the resources, qualitative and quantitative time-bound targets, multi sector and across Government planning and coordination, accountability, monitoring and evaluation mechanisms and clearly defined processes for ongoing consultation with people with disability.

**Resourcing of the plans**

1. In order for disability inclusion planning at all levels of Government to lead to tangible outcomes for people with disability, sufficient resources must be dedicated to support both their development and implementation.
2. For Government departments to be confident in identifying ambitious goals and targets, they need to know that they will have access to adequate resources in order to implement these plans in full. If resourcing is not dedicated at all levels, planning will become an arbitrary process, and outcomes will not be achieved.

**Recommendation:**

That recurrent, dedicated resources are committed to the achievement of activities under the DIP and that these resources are made available across all levels of Government to facilitate the implementation of activities under DIAPS.

**Safeguarding support services for all people with disability**

1. Given the shift to a market driven environment under the NDIS, there is considerable concern that the support needs of some people with disability will not be met; particularly those people with complex needs or who need expensive or unusual services.
2. Service providers will be able to refuse to provide supports to a person where they may feel it is too difficult, too costly, or where they do not have sufficiently skilled staff. This could result in some people with disability falling through the gaps.
3. To ensure that this does not happen, the NSW Government should maintain their role as a provider of services of last resort.

**Recommendation:**

The NSW Government retain some element of disability service delivery funding in order to maintain provision of services of last resort when needed.

**Governance**

1. The NSW Implementation Plan has a governance structure that identified responsibilities with Government for its implementation, and the mechanisms through which this implementation would be coordinated. Overall responsibility for the Implementation Plan sits clearly with the Minister for Disability Services, who according to the Department of Family and Community Services (FACS) website[[1]](#footnote-1);

*“…will oversee the plan and provide the policy directions and context for its implementation. The Minister will also take responsibility for advocating in Cabinet for initiatives and reforms that integrate disability issues into mainstream government decision making”.*

1. The Implementation Plan also identifies whole of government interdepartmental processes whereby efforts are coordinated, implementation monitored and reported and stakeholder feedback and input facilitated.[[2]](#footnote-2)
2. Whilst the responsibility for the delivery of disability support services is shifting with the roll out of the NDIS from the state to the Commonwealth Government, the responsibility for ensuring inclusion of people with disability in mainstream services remains with NSW Government and its agencies. As is done in the Implementation Plan, the DIP should clearly identify the lead and partner agencies responsible for activities related to outcome areas of the NDS, with accountability for implementation of actions under the NDS outcome areas lying with the appropriate minister responsible i.e. the Minister for Education.
3. In addition, an office of the Minister for Disability Inclusion must be adequately resourced as a coordinating mechanism to implement disability policy and community inclusion across government and the community, both during the NDIS transition and into the future. This is particularly important given the significant institutional knowledge and expertise that will be lost through the phasing out of the Department of Ageing and Disability Care (ADHC).
4. ADHC provides a crucial role in coordinating services for people with disability and acting as a focal point regarding disability expertise within the NSW Government. This function is to be phased out with the introduction of the NDIS, and the National Disability Insurance Agency (NDIA) has no responsibility for the coordination of disability services. There will be no other coordinating mechanism to provide expertise on disability issues or to coordinate the implementation of disability policy across Government.

**Recommendation:**

The NSW Government maintain the office of a Minister for Disability Inclusion, with responsibility for oversight of activities related to the DIP.

The DIP should clearly identify the lead agencies, departments and partners involved in achievement of activities. At a local government and agency level, DIAPS should assign responsibility of achievement of outcomes at a senior management level, and this accountability be reflected in performance expectations.

**NSW Government should lead the way**

1. Partnership between the community sector, business and government is integral to achieving inclusion for people with disability. The NSW Government must lead by example and take practical steps within its own processes and practices to actively promote inclusion. For example, the DIP should set clear targets for public sector employment of people with disability, and outline clear strategies with defined milestones, to increase the employment of people with disability across all agencies and at all levels.
2. In addition, through their procurement practices, the NSW Government should preference to those suppliers who meet targets for equal employment of people with disability. Australian Disability Enterprises should not be considered preferred providers, as they do not promote inclusive employment of people with disability.
3. Inclusion for people with disability depends on the fulfilment of their human rights. In order for all those responsible for creating and implementing disability inclusion plans to understand and appreciate their role in fulfilling these rights, it is essential that there be a better understanding of the human rights frameworks, particularly the CRPD.
4. The Discussion Paper states that FACS will provide access to human rights training resources to all NSW Government departments and local governments. It would be most appropriate for an experienced disability rights organisations to develop and deliver this training.

**Recommendation:**

The DIP identifies targets for employment of people with disability across the public sector, and data on progress made towards these targets is included in annual DIP reporting.

All NSW Government departments’ preference suppliers who meet defined targets for inclusive employment of people with disability.

All public sector employees required to complete human rights training which is developed and delivered by an experienced disability rights organisation.

**Consultation with people with disability**

1. Consultation with people with disability in the development of policy and legislation, and the monitoring of implementation of such policy, is the only way to ensure that mainstream services are accessible and delivered to meet the preferences and needs of people with disability.
2. Consultation with people with disability is a principal requirement for state parties under the CRPD, as defined in Article 33 (3) and Article 4 (3)[[3]](#footnote-3). This requirements is relevant across all levels of Government agencies developing inclusion plans with an aim to implement the NDS.
3. However, if consultation is insincere or not genuinely representative of people with disability, the process in itself will undermine the intentions and goals of the NDS, and the plans developed will not deliver the desired outcomes.
4. It is encouraging that the Discussion Paper places emphasis on consulting people with disability, however the paper falls short in articulating how this consultation will be undertaken, and resourced, apart from numerous references to the role of the Disability Council.
5. Whilst the Disability Council has a legitimate role in the development and monitoring of the DIP and DIAPs, the Disability Council does not have the remit or the structure to ensure broad consultation of people with disability.
6. The Disability Council is made up of individuals selected by the Government. This is not a representative organisation of people with disability, and the Council does not have the resources to reach people with disability throughout NSW. In addition, reaching groups identified as particularly vulnerable or warranting specific attention[[4]](#footnote-4) will require representative organisations that are culturally and socially appropriate and have knowledge and experience working with these communities.
7. The transfer of disability funding from NSW to the Commonwealth with the NDIS has meant that funding for independent advocacy and representative organisations is at risk. If these organisations are not provided with recurrent funding over the long term, structures will not be in place to meaningfully consult with people with disability.

**Recommendation:**

A Consultation Framework be developed to support disability inclusion planning in NSW, which clearly articulates the expectations and processes through which people with disability and their representative organisations will be consulted throughout the development and monitoring of plans.

The NSW DIP identify the essential role that independent advocacy, independent information and representative organisations have to play in the implementation of the DIP, and provide for appropriate, recurrent resources for these organisations to continue their role promoting inclusion for people with disability.

**Opportunities for ongoing feedback**

1. Disability inclusion plans at all level of Government, and across all agencies, need to be flexible, relevant, adaptable and responsive to the changing needs of people with disability. This is particularly important as the disability landscape in NSW changes with the roll-out of the NDIS, and ADHC services are transferred to the non-government sector.
2. The NSW DIP and subsequent DIAPs must clearly articulate how people with disability and their representative organisations can provide ongoing feedback regarding activities associated with the plans. Feedback mechanisms must be accessible and provide a genuine format through which people feel that their feedback and concerns are taken on board. This feedback should be reflected by proactive review of plans as issues arise.
3. An annual report with a summary of progress of actions provided to the Minister[[5]](#footnote-5) will not be sufficient unless this report includes data which directly relates to tangible outcomes for people with disability, as defined within the Monitoring and Evaluation Framework. In addition, this report should be publically available in accessible formats to ensure that the DIP is inclusive and transparent, and that people with disability can hold decision makers to account on progress towards goals and targets.

**Recommendation:**

Disability Inclusion Action Plans at all level of Government and across all agencies have a formal, accessible mechanism through which people with disability and their representative organisations can provide ongoing feedback.

A report be publically released annually which summarises progress made towards targets identified in the DIP. The report should identify where additional efforts are needed in order for milestones and targets to be reached. This report should be published in accessible formats.

All Government departments include targets in their DIAPS for all communication and publications to be accessible and provided in appropriate formats for people with disability. This should be an immediate requirement for all resources associated with the NSW DIP.

**Monitoring and Evaluation Framework**

1. Initiatives identified in the DIP must be matched with a comprehensive Monitoring and Evaluation Framework which; has clear time-bound goals and targets, identifies baseline data against which progress will be tracked (reinforcing the importance of the evaluation report of the Implementation Plan to establish where there are gaps in data) and defines responsibility for how and when reporting must be undertaken.
2. Under this Framework, achievements must be reported not only in terms of outputs (such as activities funded or projects commenced) but must critically evaluate the tangible outcomes for people with disability. To ensure that this can be appropriately assessed, monitoring and evaluation of progress under the plan would best be undertaken by an independent body, and should be inclusive of people with disability and their representative organisations.

**Recommendation:**

That the office of the Minster for Disability Inclusion be responsible for establishing a comprehensive Monitoring and Evaluation Framework for the DIP, and that this Framework have clear expectations for reporting outcomes and achievements across all levels of Government.

Monitoring and evaluation of the DIP be undertaken by an independent body which is adequately resourced to report on progress annually and make ongoing recommendations regarding changes to the plan to improve outcomes for people with disability.

# Conclusion

1. The National Disability Strategy recognises that the responsibility for the fulfilment of rights of people with disability lies will all members of the Australian society. Considerable effort will be needed by the community sector, business and the NSW Government to make sure that in the changing disability landscape, these rights are not undermined and people with disability further excluded.
2. The NSW Disability Inclusion Plan must therefore be a living document that turns rhetoric into real action across all levels of Government. PWDA hope that the recommendations in this submission are taken on board as integral components in the development and implementation of a Plan that genuinely reflects cross-government responsibilities and acts as a vehicle through which these responsibilities are realised.

**People with Disability Australia (PWDA) thanks the Department of Family and Community Services for the opportunity to make this submission, and welcomes further consultation on any of the matters raised.**

1. <http://www.adhc.nsw.gov.au/about_us/strategies/national_disability_strategy/nds_nsw_implementation_plan/nds_nsw_implementation_plan/putting_the_plan_into_action> for more details [↑](#footnote-ref-1)
2. See Implementation Plan page 11 and 48 and 49. [↑](#footnote-ref-2)
3. <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx#33>

Article 33(3) – Civil society, in particular persons with disabilities and their representative organizations, shall be involved and participate fully in the monitoring process.

Article 4 (3) In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations. [↑](#footnote-ref-3)
4. As identified in the discussion paper p. 5 as women and children with disability, Aboriginal and Torres Strait Islander people with disability and people from culturally and linguistically diverse backgrounds [↑](#footnote-ref-4)
5. As suggested in the Discussion Paper p.28 [↑](#footnote-ref-5)