



**PEOPLE WITH DISABILITY**  
**AUSTRALIA**

**A voice  
of our  
own**

# **A Rights Direction:**

**Delivering on Australia's obligations  
under the CRPD through the National  
Disability Strategy 2020–2030**

*PWDA's submission in response to the *National Disability Strategy*  
Position Paper: Stage 2 consultations*

**OCTOBER 2020**

# About PWDA

**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 – and we represent the interests of people with all kinds of disability. We are a non-profit, non-government organisation. We help individuals by advocating for their interests, and groups through our systemic advocacy efforts. We also encourage people to engage in self-advocacy.

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. We employ many people with disability.

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.

PWDA is also a founding member of Disabled People's Organisations Australia (DPO Australia) along with Women with Disabilities Australia, First Peoples Disability Network Australia, and National Ethnic Disability Alliance. DPOs are organisations that are led by, and constituted of, people with disability.

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# Contents

About PWDA	ii
Contents	iii
Introduction	1
Background	5
Question 1 — Vision and outcomes areas proposed	11
Question 2 — Guiding principles	38
Question 3 – A stronger focus on community attitudes	49
Question 4 – Clearly describing roles and responsibilities for government	50
Question 5 – Clearly describing roles and responsibilities across the broader community	52
Question 6 – Measuring NDS outcomes and reporting on change for people with disability	53
Question 7 – Targeted action plans to drive implementation	56
Question 8 – Engagement with people with disability	58
Question 9 – Additional information	60
Consent to publish submission	61
Appendix A – United Nations recommendations	62
Appendix B – ACCAN recommendations	74
Appendix C – AFTA alliance recommendations	78

# Introduction

People with Disability Australia (PWDA)<sup>1</sup> welcomes the opportunity to provide this submission to the Australian Government's Stage 2 Consultations for the National Disability Strategy.

As a Disabled People's Organisation (DPO) and a member of Disabled People's Organisation Australia (DPOA), PWDA has been an active participant in the development and review of the *National Disability Strategy 2010–2020*. We have also been involved in the planning and Stage 1 consultation processes for the next phase of our National Disability Strategy 2020–2030. Our policy and representation work on behalf of people with disability has included being a member of the National Disability Strategy Reform Steering Group. We have also contributed to numerous consultation processes that have reviewed the efficacy of the *National Disability Strategy 2010–2020*.

Our submission outlines key opportunities and issues to be addressed through the second stage of review of the National Disability Strategy<sup>2</sup>.

Our submission is structured to follow the department's questionnaire produced to go alongside the *National Disability Strategy Position Paper*<sup>3</sup> published in July 2020.

It answers the structured questions but also offers a wider array of recommendations based upon Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities<sup>4</sup>, which Australia ratified in 2008.

In making this submission, PWDA notes that there is no comprehensive legislative, administrative, judicial or other protection of human rights in Australian domestic law, such as a Bill or Charter of Rights. This means that the NDS is the principal national strategic plan, agreed by all Australian governments, to implement the UN CRPD. The NDS is therefore critical to the realisation of the human rights of people with disability in Australia.

Our views on Australia's NDS and implementation of the UN CRPD are based on our experiences as people with disability and our goals for living equal lives, where our human rights are fully realised.

We want to see transformation for people with disability in this country, as intended in the original strategy.

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<sup>1</sup> People with Disability Australia, <https://pwd.org.au>

<sup>2</sup> National Disability Strategy, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020>

<sup>3</sup> *National Disability Strategy Position Paper*, <https://engage.dss.gov.au/nds-stage2-consultation/national-disability-strategy-position-paper>

<sup>4</sup> United Nations Convention on the Rights of Persons with Disabilities, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

That means that all Governments need to recommit to our National Disability Strategy, and it needs to be fully funded with meaningful accountability mechanisms for delivery on goals and actions. We need a National Disability Strategy for the next decade that has teeth, so Australia can end the segregation, exclusion and disadvantage that we, as people with disability, face every day.

PWDA continues to support the original six outcomes of the *National Disability Strategy 2010–2020* and is pleased to see the original strategy's outcomes reappear in this position paper. However, we note like many other disability organisations that some of the outcomes are too big as topics on their own and should be broken down into more targeted outcomes in consultation with disability peak organisations, following this Stage 2 consultation process.

While we support the National Disability Strategy and its broad outcome areas, we believe Australia has a significant way to go to meet the goals of the NDS, including inclusive and accessible communities, rights protection, justice and legislation and health and wellbeing. There are problems with the strategy's implementation and efficacy. These problems include a lack of deep buy-in across governments at all levels and across portfolio areas. This is demonstrated by initiatives and goals which are not underpinned by incentives to drive real transformation change. Success for delivery on the next iteration of the NDS must include clear funding and resourcing for the strategy's implementation, monitoring and evaluation.

As people with disability our human rights are regularly breached in this country and it would be disappointing to see another decade of incomplete protections for us and outcomes that fail to be anything besides aspirational.

The Australian Government has established a Royal Commission into Violence, Abuse, Neglect and Exploitation of people with disability to investigate and recommend change to address the scandalous rates of violence against us. It is critical that plans for the next NDS make provision for implementing the recommendations from the Disability Royal Commission when they are delivered to Government.

We want to see governments successfully turn around the disadvantages we regularly face.

There are many areas of our daily lives that we want to see change in this country. They cut across all government portfolio areas, showing why the NDS is a whole-of-government strategy. In our annual survey late last year, PWDA highlighted the following priorities. These included:

- making decisions about our lives (64%)
- access to justice (45%)
- poverty (44%)
- helping us know our rights (41%)
- how people think and talk about us (30%)
- where we live (28%)
- segregation (27%)

- financial abuse (27%)
- forced medical treatment (23%)
- family violence (21%).

Because the NDS is a whole-of-government strategic plan, we have long recommended that responsibility for the strategy should rest with the Prime Minister and Department of Prime Minister and Cabinet, and comparable First Ministers and the departments of premier and cabinet in states and territories.

We also propose that reporting on the progress of implementing the NDS and improving the lives of people with disability should be undertaken annually. The report should be presented by the Prime Minister to Federal Parliament in a similar way to the progress reports to Closing the Gap. We would suggest that the report should be presented on a set day each year within the parliamentary sitting calendar to enable members of parliament and people with disability to participate the proceedings.

The NDS should also include comparable annual reporting requirements to state and territory parliaments as well as at the local government level. These might take the form of a report on how each state and territory and local government area is progressing with meeting goals on their disability inclusion plans.

It is not enough to report to the National Cabinet on a biannual “target”. Ownership of the strategy should and must be engrained at levels of government, and be part of the guiding principles that every minister adopts with their portfolios.

As we have noted previously, there needs to be more effective accountability, monitoring and evaluation mechanisms. The two progress reports produced previously for a ten-year strategy were simply not frequent enough. The documents unfortunately lacked real accountability for driving improvements in our life outcomes, and our inclusion and participation in all aspects of Australian life.

As the Government knows, the United Nations reviewed Australia’s human rights record for people with disability last year and found the country fell short of meeting its obligations. A prioritised, adequately supported National Disability Strategy for the next decade could help us turn this around, particularly if we address legislative gaps in our implementation of the strategy.

We believe the NDS agenda laid out in the position paper may enable the Government to produce positive progress reports without additional legislative change, a culture of accountability and clear funding arrangements. However, we will continue to face discrimination and fail to have our human rights met under the UN CRPD if this approach is taken. Without a strong focus and relationship to the articles under the UN CRPD in the NDS, Australia is at real risk of continuing its current situation, where our nation does not meet its obligations as a signatory to the UN convention.

The original strategy had, and continues to have, strong buy-in from us – Australia’s people with disability – and the disability sector in this country. It is time to finally leverage that support by properly resourcing the strategy and setting real, deliverable targets so the strategy can have teeth to bite into the real disadvantages we face every day.

Australia’s progress reports on implementing the National Disability Strategy going forward must therefore be meaningful and significant, and efforts must be made to properly resource the strategy to fully deliver properly targeted implementation plans.

The National Disability Strategy is the main way Australia can implement the UN CRPD. These rights include the right to not be discriminated against, and the rights to individual autonomy and independence. That independence includes the freedom to make choices and be given an opportunity to be actively involved in decision-making processes about policies – like this strategy – and programs, including those that directly concern us.

We cannot abandon our vision to ensure the rights of people with disability are promoted, protected and upheld. As a peak advocacy body for people with disability, People with Disability Australia encourages the Australian Government to fight for our rights by maintaining a strong vision for the National Disability Strategy.

Some 4.4 million people, or 19.8 per cent of Australia’s population has disability. The first National Disability Strategy set an ambitious vision for a landmark National Disability Insurance Scheme (NDIS) to support people with disability. While life-changing for many, the NDIS only covers about 10 per cent of people with disability. That means 90 per cent of people with disability, or 4 million Australians still need a resourced National Disability Strategy to counter the disadvantage we face every day.

Australia cannot neglect the rights of such a large group with its latest National Disability Strategy. People with disability not covered by the NDIS make up a significant 18 per cent of the Australian population.

Our nation does not need a weaker NDS to ensure it can claim a bigger chunk of successes in its progress reports to the Australian parliament, to people with disability and the wider Australian public. Instead it needs a stronger commitment to the NDS goals it already has in place.

People with Disability Australia encourages the Federal Government to make better efforts to meet its international obligations to implement the UN CRPD by implementing a rigorous new national strategy, not a simplified document. The new National Disability Strategy should be just as ambitious as the previous strategy and set a committed reform agenda to change the lives of the majority of Australians with disability.

# Background

PWDA acknowledges the NDS was developed following a public consultation process conducted across Australia that resulted in the 2009 report, *Shut Out: The Experience of People with Disabilities and their Families in Australia*<sup>5</sup>. This report exposed the daily experiences of stigma, discrimination, disadvantage and human rights violations that we face as people with disability, and it underscored the critical need for the NDS as a human rights-focused national strategy.

Our goals for a transformation are described in the *Shut Out* report, which states:

“People with disabilities want to bring about a transformation of their lives. They want their human rights recognised and realised. They want the things that everyone else in the community takes for granted. They want somewhere to live, a job, better health care, a good education, a chance to enjoy the company of friends and family, to go to the footy and to go to the movies. They want the chance to participate meaningfully in the life of the community. And they are hopeful. They desire change and they want others in the community to share their vision. They recognise that governments cannot work in isolation and they want others to see the benefits of building more inclusive communities.”

In 2012, PWDA, other disabled people’s organisations and other disability representative and advocacy organisations joined together as the NGO CRPD Shadow Report Project Group and prepared the *Disability Rights Now: Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities*<sup>6</sup> report for a United Nations (UN) review of Australia’s compliance with the CRPD. This *Disability Rights Now 2012* report was based on consultations across Australia with people with disability and their representative organisations and outlined the stigma, discrimination, disadvantage and human rights violations experienced by people with disability in relation to the CRPD.

In *Disability Rights Now*, we noted the progress Australia had made advancing the civil, political, economic and cultural rights of people with disability in the previous 30 years. But we also acknowledged the shortfalls, highlighting that people with disability remain significantly behind people without disability in Australia and people with disability in other countries.

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<sup>5</sup> *Shut Out: The Experience of People with Disabilities and their Families in Australia*, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/shut-out-the-experience-of-people-with-disabilities-and-their-families-in-australia?HTML>

<sup>6</sup> *Disability Rights Now: Civil Society Report to the United Nations Committee on the Rights of Persons with Disabilities*, <https://pwd.org.au/our-work/policy-areas/human-rights-campaigns/united-nations-convention-on-the-rights-of-persons-with-disabilities/crpd-civil-society-shadow-report>

Australia was the first country to be reviewed with its progress under the CRPD, in 2013, but the nation has still failed to enact a number of key reforms from the UN's *Concluding observations on the Initial Report of Australia, Adopted by the Committee at its Tenth Session (2-13 September 2013)*, including suggestions on access to justice.

The UN flagged its principal concerns<sup>7</sup> with Australia's implementation of the UN CRPD back in 2013. Among its areas of concern were: Australia's interpretative declarations on articles 12, 17 and 18 of the convention; its regret that Australia's governments did not have sufficient mechanisms to engage with people with disability and disability advocacy organisations on policy and programs; and its concern that organisations of people with disability, including people with psychosocial disability and Aboriginal and Torres Strait Islander people with disability, were insufficiently funded for their operations.

In the 2012–2013 era, the government had the opportunity to nationalise laws against a key aspect of disability discrimination – intersectional discrimination – where people face discrimination on more than one front. However, its Human Rights and Anti-Discrimination Bill 2012 failed to pass and we were left without the national-level protections many acknowledged we needed, including the Senate Legal and Constitutional Affairs Legislation Committee<sup>8</sup>.

Australia is well aware of its shortfalls in meeting the human rights of people with disability in this nation.

Over the years we have had a number of senate inquiries that have highlighted the disadvantage and discrimination we face. Among these are the 2015 Senate Inquiry into Violence, Abuse and Neglect Against People with Disability in Institutional and Residential Settings. This review examined the experiences of people in priority populations, noting age and gender-related dimensions, and the experiences of Aboriginal and Torres Strait Islander people with disability, and culturally and linguistically diverse people with disability. Despite the passage of time since that inquiry people with disability are still struggling in institutional settings, congregate living such as group homes, and inappropriate home environments, such as aged care facilities.

We have also had the Senate Inquiry into the Delivery of Outcomes Under the National Disability Strategy 2010–2020, in 2017. In our submission, made as a member of DPOA, we made seven recommendations. These were:

- 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.

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<sup>7</sup> UN Committee on the Rights of Persons with Disabilities, *Concluding observations on the Initial Report of Australia, Adopted by the Committee at its Tenth Session*, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAgHkb7yhsnzSGolKOaUX8SsM2PfxU7tjZ6q%2FxBVYsYEv6iDyTXyNk%2BsAB%2FHgrVpAKHcEYTB%2B1t%2FH3HX1F%2F%2Bo%2Bk3O4KhxfhPoTQZ3LeS75n8PHidYHE3>

<sup>8</sup> The Senate, Legal and Constitutional Affairs Committee (Parliament of Australia), *Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012*, February 2013.

- 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.
- 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 multimedia news, opinion and podcast portal to build on the work of ABC Ramp Up.
- 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.
- 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.
- 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.
- Engage with state and territory, and local government authorities to develop nationally consistent guidelines for disability inclusion action planning.

While we acknowledge some progress has been made to address the actions, we are yet to see this agenda fully realised and continue to endorse these reforms.

In September 2019, PWDA participated in the Australian Civil Society Delegation sent to Geneva to participate in a second UN review of Australia's compliance with the UN CRPD, presenting our concerns to the Committee on the Rights of Persons with Disabilities<sup>9</sup>.

This presentation followed our presentation of a shadow report, *Disability Rights Now 2019: Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disability: UN CRPD Review 2019*<sup>10</sup> to the UN committee ahead of the meeting, which was prepared for us as members of the Disabled People's Organisations Australia<sup>11</sup> group, in partnership with other disability representative organisations (DROs), and disability advocacy organisations (DAOs).

<sup>9</sup> Committee on the Rights of Persons with Disabilities, <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>

<sup>10</sup> *Disability Rights Now 2019: Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disability: UN CRPD Review 2019*, <https://dpoa.org.au/rights-of-people-with-disability-routinely-ignored-new-report>

<sup>11</sup> Disabled People's Organisations Australia, <https://dpoa.org.au>

This shadow report, *Disability Rights Now 2019*, was well received by all members of the UN committee, sets an agenda for reform and makes the following critical recommendations for Australia:

- Withdraw its interpretative declarations to articles 12, 17 and 18<sup>12</sup>, which prevent reform and allow for human rights violations including denial of legal capacity, forced treatments, and discrimination against non-Australian people with disability seeking to enter or remain in Australia.
- Strengthen anti-discrimination laws to address intersectional discrimination; enable representative complaints; enable complaints regarding disability hate crimes; and ensure people with disability can effectively make complaints about denial of reasonable accommodation.
- Develop and enact national legislation on the prevention of all forms of gender-based violence.
- Incorporate CRPD rights<sup>13</sup> into legislation, policies and programs that apply to children and young people; and develop mechanisms to ensure that children and young people with disability can participate in consultations, decision-making processes and policy development that affect their lives.
- Establish a national framework for mandated compliance against *Disability Standards for Accessible Public Transport; the Disability (Access to Premises – Buildings) Standards*<sup>14</sup> and the *National Standards for Disability Services*<sup>15</sup>, and amend the *National Construction Code*<sup>16</sup> to mandate minimum access features for all new and extensively modified housing.
- Urgently address the over-representation of people with disability in the criminal justice system, and end the unwarranted use of prisons for the management of unconvicted people with disability.
- Act to ensure that Auslan<sup>17</sup> is recognised as a national language, and harmonise laws to ensure that people with disability, including deaf people are able to equally serve on juries.

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<sup>12</sup> Australia's interpretative declarations to articles 12, 17 and 18, [https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-dp-81/2-conceptual-landscape-the-context-for-reform/international-context-2/#\\_ftn29](https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-dp-81/2-conceptual-landscape-the-context-for-reform/international-context-2/#_ftn29)

<sup>13</sup> CRPD rights, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

<sup>14</sup> Disability Standards for Accessible Public Transport; the Disability (Access to Premises – Buildings) Standards, <https://www.legislation.gov.au/Series/F2010L00668>

<sup>15</sup> National Standards for Disability Services, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/standards-and-quality-assurance/national-standards-for-disability-services>

<sup>16</sup> National Construction Code, <https://ncc.abcb.gov.au/ncc-online/NCC?pageNumber=2&searchTerm=&sort=&results=&generalParam=>

<sup>17</sup> Auslan, <http://www.auslan.org.au/about/history>

- Establish a nationally consistent framework for the protection of people with disability from behaviour modification and the elimination of restrictive practices across a broad range of settings.
- Enact national uniform and enforceable legislation prohibiting sterilisation and medically unnecessary interventions of people with disability and people with intersex variations in the absence of their prior, fully informed and free consent.
- Develop a national plan for the closure of residential institutional environments, and develop genuine community-based housing and support options for people with disability.
- Take urgent action on discrimination against parents with disability, particularly action to address the high rate of child removal from parents with disability.
- Develop a national Action Plan for Inclusive Education that includes a legislative and policy framework that fully complies with Article 24<sup>18</sup> and General Comment 4<sup>19</sup>.
- Develop a national disability employment strategy that contains targeted gendered measures for increasing workforce participation of people with disability, and that transitions people from segregated employment towards mainstream employment and provides equitable remuneration for work.
- End ongoing eligibility restrictions for the disability pension (DSP), and increase the rate of income support payments to ensure access to an adequate standard of living.
- Establish a formal mechanism for meaningful engagement of people with disability in decision making, and the implementation and monitoring of the CRPD in line with General Comment 7<sup>20</sup>.

The UN committee subsequently shared concerns and recommendations about Australia's implementation of the UN CRPD in its *Concluding Observations on the Combined Second and Third Periodic Reports of Australia*<sup>21</sup>. These recommendations are documented in [Appendix A](#) and included that Australia must:

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<sup>18</sup> UN CRPD Article 24, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-24-education.html>

<sup>19</sup> UN General Comment 4, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/4&Lang=en)

<sup>20</sup> UN General Comment 7, <http://docstore.ohchr.org>

<sup>21</sup> Committee on the Rights of Persons with Disabilities, *Concluding Observations on the Combined Second and Third Periodic Reports of Australia*, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/AUS/CO/2-3&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/AUS/CO/2-3&Lang=En)

- Remove its interpretative declaration on articles, 12, 17 and 18<sup>22</sup> – an essential element to ensure justice for people with disability in Australia.
- Tackle the current limitations in the [Disability Discrimination Act 1992](#), to ensure anti-discrimination laws are strengthened, enable representative claims, enable complaints about disability hate crimes and ensure people with disability can make complaints about denial of reasonable accommodation.
- Address the serious delays in the third implementation plan of the [National Disability Strategy](#), and develop a monitoring and evaluation framework.
- Understand and address that the NDIS assessment criteria relies heavily on a medical model of disability, in contravention of the CRPD, and does not adequately cover older persons with disability, people from CALD backgrounds or Aboriginal and Torres Islander people with disability.
- Address the current situation where national advocacy programs are not adequately or sustainably funded for people with disability.
- Enact national uniform and enforceable legislation prohibiting sterilisation and medically unnecessary interventions on people with disability.
- Develop a national action plan for inclusive education that fully complies with [Article 24](#).
- Introduce and develop a national disability jobs strategy to increase the workforce participation of people with disability.
- Develop a formal mechanism, including a monitoring and evaluation framework, for the implementation of the CRPD which involves the meaningful engagement of people with disability and their representative organisations.

PWDA believes Australia should implement the recommendations we made to the Senate Inquiry into the Delivery of Outcomes Under the National Disability Strategy 2010–2020 and the shadow report *Disability Rights Now 2019*, along with the UN committee’s recommendations in its two *Concluding Observations* (the latest observations are featured in [Appendix A](#)) and the key actions we outline in this submission.

We believe these actions should be incorporated into targeted action plans, resourced and implemented so the National Disability Strategy has teeth to take a bite into the disadvantage we face every day.

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<sup>22</sup> Australian Government Australian Law Reform Commission, *International context – United Nations Convention on the Rights of Persons with Disabilities*, Interpretative Declaration on Articles, 12, 17 and 18, [https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-dp-81/2-conceptual-landscape-the-context-for-reform/international-context-2/#\\_ftnref29](https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-dp-81/2-conceptual-landscape-the-context-for-reform/international-context-2/#_ftnref29)

# Question 1 — Vision and outcome areas proposed

**During the first stage of consultations we heard that the vision and the six outcome areas under the current Strategy are still the right ones.**

**Do you have any comments on the vision and outcome areas being proposed for the new National Disability Strategy?**

## The proposed vision

**An inclusive Australian society that enables people with disability to fulfil their potential as equal members of the community.**

People with Disability Australia agrees with **the proposed vision** for the revised strategy but does not agree with the removal of the word **citizen**. Our rights as people with disability in Australia are enshrined in the United Nations Convention on the Rights of Persons with Disabilities and are deeply tied to our status as citizens of Australia and other signatory countries to the convention across the world.

As a country-state signatory to the convention, Australia must ensure it reaffirms the right of people with disability to have equal recognition before the law, under Article 12<sup>1</sup> of the UN CRPD which states:

### **Article 12 – Equal recognition before the law**

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

As a result, we recommend the wording, “**enjoy their rights**” be used rather than “**fulfil their potential**” in this vision to describe our right to be treated as **equal citizens**. We also recommend the words, “**members of the community**” are kept so we can include those of us with disability in Australia who are citizens of other nations. In our wording below and throughout this document we have flagged our suggested additions or substituted with [square brackets] that are the **colour purple**. We believe these recommendations will better reflect the true basis of the strategy’s aspirations which are our human rights as people with disability. Here is our suggested vision:

An inclusive Australian society that enables people with disability to [enjoy] their [right to be] equal [citizens and] members of the community.

## Outcome areas

PWDA agrees that the Outcome Areas should be retained as a foundation or organising principle for the second 10-year National Disability Strategy.

The life stories and experiences of people with disability shared through countless consultations and research reports continue to highlight that:

- People with disability need better economic security.
- People with disability need fully inclusive and accessible communities.
- People with disability need better rights protection, access to justice and legislation that promotes our legal and bodily autonomy and ends discrimination against us.
- People with disability need better access to personal and community support regardless of our age and where we live
- People with disability need to be able to participate fully in mainstream education and training.
- People with disability need to be able to have strong health and wellbeing just like everyone else.

PWDA believes there are some outcomes areas missing from *the National Disability Strategy Position Paper*. These are:

- People with disability need **safety and violence prevention**, and this should be a separate outcome to rights protection, justice and legislation.
- People with disability need to be supported by improving **community attitudes**, and this should be considered separate from inclusive and accessible communities, which might just become accessible communities.
- People with disability need robust **disaster preparedness and response**, as we have seen during the current COVID-19 pandemic and recent bushfire seasons.

These outcome areas also intersect, and one outcome may need to be progressed in tandem with another.

In addition, what is missing from this position paper is the clearly articulated goals, actions and outcomes that will be measured and reported on by governments on our progress to realise the rights of people with disability across Australia.

We recognise that there are many ways that a plan for each Outcome Area can be developed. However, regardless of the approach, it is absolutely vital that each outcome area contains clear plans to deliver change for people with disability. Each outcome area must include **actual measurable** outcomes.

One way to achieve this is to create a clear plan for each outcome area.

In the following section, we outline examples of what this might look like. In providing these examples, we have drawn from the priorities and goals from:

- The consultations with people with disability for the 2019 Civil Society Shadow Report, *Disability Rights Now*, submitted at the 22<sup>nd</sup> Session of the United Nations (UN) Committee on the Rights of Persons with Disability (26 August – 20 September 2019).
- The *Concluding Observations* from the 22<sup>nd</sup> Session of the UN Committee on the Rights of Persons with Disabilities.
- Numerous previous reports and consultations developed in consultation with people with disability that outline, through recommendations, an agreed way forward to improve the life circumstances and experiences of people with disability.
- What our members and the wider community of people with disability tell us needs to change.

The **plan for each outcome area** must be developed in consultation with people with disability and their representative organisations. It will need clear targets so that we can know we are achieving the goals we have set out to achieve.

These plans should draw on and strengthen work that is already taking in place across government agencies. However, unlike the previous reporting process for the National Disability Strategy 2010-2020, we do not want to see the reporting simply listing of a set of activities that government agencies have delivered. What we need is high-level galvanising goals and targets that bring all stakeholders together to focus on and deliver change and, indeed, deliver on those aspects of the CRPD that have yet to be fully realised in Australia.

What we think this looks like is outlined below.

## Economic security and accessible employment

**People with disability have economic security, enabling them to plan for the future and exercise choice and control over their lives. Economic security can include things like having an income, having a job and career.**

People with disability have a right to **economic security**.

All of us with disability must be supported to participate in open employment, by improving the participation rates of people with disability in mainstream employment opportunities. People with disability must also enjoy equal employment conditions, and be supported to participate in workplaces that value the full inclusion of people with disability.

The economic security of people with disability must start at the transition from leaving school into open employment, and needs to continue throughout one's life right through to retirement. Therefore, a life course approach must be considered to realise the economic security of people with disability.

Additionally, a key element of securing the economic security of people with disability will be equal access to adequate income support for when a person with disability has no or reduced capacity to work. Providing adequate income support also supports the right of people with disability to have an adequate standard of living and social protection.

Realising the economic security of people with disability will ensure we can participate in society on an equal basis with people without disability. The benefits of realising the economic security of people with disability include dignity, financial security and financial inclusion, a sense of purpose, meaningful social engagement and social connectedness, and the equal opportunity to contribute and participate in the social, political, cultural and economic life of Australia.

While not the only factor, realising the right to economic security also supports the right of people with disability to live our lives free from violence, abuse, neglect and exploitation, by ensuring we can access open employment opportunities that pay the same as those available to people without disability.

Therefore, PWDA's suggested wording for the Economic Security outcome is:

People with disability have economic security, enabling them to plan for the future and exercise choice and control over their lives. Economic security can include things like having an [equitable] income and having a [job with equal benefits. People with disability should enjoy equal employment conditions and must not be forced into employment or compulsory labour. People with disability should also enjoy equal access and opportunity to employment, and be supported at key transition points to obtain and retain employment. People with disability must also have access to adequate income support, to ensure an adequate standard of living and social protection].

## Outcomes to be achieved

The outcomes for people with disability include, but are not limited, to the following:

- People with disability are supported to obtain and retain jobs in open employment on an equal basis with people without disability.
- People with disability access income support in a timely manner when needed.
- People with disability enjoy financial security mainly from employment.
- People with disability enjoy financial security to enable them to plan for the future, and exercise choice and control over their lives.
- People with disability are not segregated from people without disability in employment settings.
- People with disability are able to meaningfully contribute and participate in the social, cultural, political and economic life of Australia.

The targeted action plan should recognise and refer directly to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities. And, in particular:

### Article 28 – Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
  - a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
  - c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - d. To ensure access by persons with disabilities to public housing programmes;
  - e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

### Article 27 – Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including

for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
  - c. Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;
  - d. Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
  - e. Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
  - f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
  - g. Employ persons with disabilities in the public sector;
  - h. Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
  - i. Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
  - j. Promote the acquisition by persons with disabilities of work experience in the open labour market;
  - k. Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.
2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

## How will we measure our progress in this outcome area?

All people with disability have economic security, enabling them to plan for their future and exercise choice and control over their lives.

### Key actions

1. Conduct a complete review of access to, and the adequacy of, the Disability Support Pension.
2. End the ongoing eligibility restrictions for the Disability Support Pension, and raise the base rate of JobSeeker and other income support payments such as Parenting Payment Single, to ensure people with disability have an adequate standard of living.
3. Implement in full the recommendations from the **2016 Willing to Work Inquiry** into Employment Discrimination Against Older Australians and Australians with Disability.
4. End segregated employment such as Australian Disability Enterprises (ADEs), by implementing a plan for transitioning away from segregated employment towards genuine work training and skill building opportunities, that lead to open employment and equitable remuneration for work.
5. Employ measures to ensure that people with disability can access employment services and supports that meet their individual needs, and which are focused on long-term outcomes.

6. Set specific targets, performance indicators and timeframes for increasing the workforce participation of people with disability across all sectors.
7. Develop and implement a monitoring and evaluation framework, with key milestones, and specified dates for public reporting on progress.
8. Strengthen the support required to transition school leavers with disability from the school education system into further study, including tertiary education, and into open employment.
9. Address intersectional discrimination and other barriers that make it harder for many people with disability to obtain and retain a job, such as gender, being from a culturally and linguistically diverse background, being from an LGBTIQ+ background, and living in a rural and remote area.
10. Clearly define reasonable accommodation in the *Disability Discrimination Act 1992*, to ensure people with disability can access the required supports to perform their job.

## Inclusive and accessible communities

**People with disability live in accessible and well-designed communities with opportunities for full inclusion in social, economic, sporting and cultural life.**

People with disability have a right to live in accessible and well-designed communities with opportunities for full inclusion in Australia's social, cultural, political, economic and sporting life.

The accessibility of our communities significantly affects our ability to live independently in the community and our experiences. All people with disability must be supported to live independently in the community, by ensuring we have access to contemporary, affordable, and accessible housing, as well as accessible access to transport and public premises.

It is vital that we do not live in segregated and congregate settings, particularly when housing is linked to the provision of our disability supports. Separating the provision of housing from disability supports also supports the right of people with disability to live a life free from violence, abuse, neglect and exploitation.

Additionally, we must be supported to communicate with others in the community, by ensuring communication is accessible for all people with disability.

Therefore, PWDA's suggested wording for the **inclusive and accessible communities** outcome is:

People with disability live in accessible and well-designed housing and communities, with [equal] opportunities for full inclusion in social, economic, sporting, cultural and [political] life. [This must include the equal opportunity to access transport and premises, as well as access to communication technologies and systems. Accessible and well-designed housing can include things like mandating accessibility standards for all new and extensively modified housing, including social housing that reflects the Liveable Housing Design Guidelines gold standard, and ensuring existing buildings can be retrofitted to the same gold standard. To ensure access to accessible housing, there needs to be a firm commitment from Commonwealth, state and territory governments, as well as all housing providers].

### Outcomes to be achieved

The outcomes for people with disability include, but are not limited, to the following:

- People with disability are supported to live independently in the community
- People with disability are supported to communicate freely
- People with disability can access public transport and premises
- People with disability can secure accessible social housing in a timely manner

- People with disability can live in contemporary, affordable and accessible homes without requiring significant modifications.

The targeted action plan should recognise and refer directly to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities. And, in particular:

**Article 9 – Accessibility**, which articulates the following obligations:

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia
  - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
  - b. Information, communications and other services, including electronic services and emergency services.
2. States Parties shall also take appropriate measures:
  - a. To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
  - b. To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities.
  - c. To provide training for stakeholders on accessibility issues facing persons with disabilities;
  - d. To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;
  - e. To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
  - f. To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
  - g. To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
  - h. To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

**Article 19 – Living independently and being included in the community**, which articulates the following obligations:

States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to 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
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

**Article 21 – Freedom of expression and opinion, and access to information**, which articulates the following obligations:

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- a. Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- b. Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- c. Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- d. Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- e. Recognizing and promoting the use of sign languages.

**Article 28 – Adequate standard of living and social protection**, which articulate the following relevant obligations:

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
  - d. To ensure access by persons with disabilities to public housing programmes;

### **How will we measure our progress in this outcome area?**

All people with disability live in inclusive and accessible communities, where they can travel, communicate and participate freely and equally in all aspects of life.

## Key actions

1. Amend the National Construction Code to mandate that accessibility standards applicable to all new and extensively modified Class 1a and Class 2 buildings, reflect Liveable Housing Design Guidelines gold standard as a minimum.
2. Develop and resource a national program to stimulate retrofitting existing buildings to be accessible and reflective of Liveable Housing Design Guidelines gold standard as a minimum.
3. Separate the provision of housing and disability supports, by ensuring full choice and control in the delivery of housing and disability supports.
4. Develop, implement and resource a National Housing Plan for people with disability as part of the National Housing Strategy, that provides a principled and long-term vision for equitable and individualised housing assistance, social inclusion and full choice and control in all housing options for people with disability.
5. Develop and implement mainstream strategies to match accessible housing with people seeking accessible housing.
6. Ensure all legislative and policy measures are developed and implemented to realise the full range of accessibility obligations under the UN CRPD, including information and communications technologies and systems.
7. Develop and implement a reporting compliance framework to ensure information and communications technologies and systems realise the full range of accessibility obligations under the CRPD.
8. Provide accessible social housing to all people with disability who need it in a timely manner.
9. Develop and implement a national framework for the standardisation, quality assurance and data collection of government home modifications programs, to promote national consistency and effectiveness.
10. Develop, implement and resource a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services.

## Rights protection, justice and legislation

**People with disability feel safe and have their rights promoted, upheld and protected.**

People with Disability Australia believes rights protection is a primary vehicle through which we as people with disability are enabled to participate fully and equally in society.

We believe the wording of the new NDS **rights protection, justice and legislation** outcome needs some finessing. We think the words should be refined so the outcome conveys the importance of people feeling safe and also being safe from abuse.

PWDA thinks it is worthwhile to finesse the wording of the outcome to name the types of abuse people may experience, in line with the name of the Disability Royal Commission and the wording of Article 15 of the United Nations Convention on the Rights of Persons with Disabilities.

As a result, we believe this outcome should be refined to read:

People with disability have their rights promoted, upheld and protected [and are safe, and feel safe, from violence, abuse, neglect, exploitation and torture].

Realisation of rights is dependent on a strong legislative and policy framework embedding Australia's human rights obligations. We stress that independent advocacy is also essential for people with disability to be able to realise our rights as quickly and effectively as possible, and would like to see a greater focus on independent advocacy in this section of the NDS.

As an organisation, PWDA has already spent considerable time thinking about how Australia can improve its rights protection, justice and legislation regime. We did this as a member of Disabled People's Organisation Australia (DPOA) when we collectively prepared the *Disability Rights Now 2019* shadow report to the UN last year.<sup>23</sup> In that report we made specific recommendations that had the support of more than 70 non-government organisations involved with people with disability, which we have included below where appropriate.

We have evaluated the original National Disability Strategy and suggest that policy directions 1, 3, 4 and 5 would be improved by the following additions and changes, and recommend the inclusion of an additional policy direction to advance the rights of children and young people with disability.

Policy Direction 1 highlights the importance of increased awareness and acceptance of the rights of people with disability. This not only requires campaigns to raise public awareness generally, but also targeted campaigns focused on particular priorities and sectors to

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<sup>23</sup> Australian Disabled People's Organisations (DPOs), Disability Representative Organisations (DROs) and Disability Advocacy Organisations, *Disability Rights Now 2019 Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disabilities: UN CRPD Review 2019*, <https://dpoa.org.au/wp-content/uploads/2019/08/CRPD-Shadow-Report-2019-English-PDF.pdf>

facilitate the translation of awareness of rights into action. The justice and education systems are two key areas that PWDA believes call for dedicated strategic campaigning.

Schools are one place where awareness of our rights could be improved to give children a better start in life. School system employees often lack awareness about the full spectrum of rights we as people with disability have and enjoy, and how to protect them.

The justice system is another key to upholding our rights as people with disability. Yet similarly justice system agents are often not aware of how best to facilitate the delivery of justice to people with disability.

Disability discrimination laws are also crucial within measures to increase awareness and acceptance of our rights of people with disability and require bolstering to ensure effective rights protection.

Policy Direction 3 affirms people with disability should have access to justice. We recommend this policy direction be shifted to encompass our broader right to equal recognition before the law and should read:

People with disability have access to justice [and are recognised as persons before the law].

The right to recognition everywhere as persons before the law and the enjoyment of legal capacity on an equal basis with others are foundational aspects of our access to justice and we also call for this to be mentioned in this section, as enshrined in Article 12 of the UN CRPD. We also call for support for each of us to participate as a person before the law within the justice system, with this right encompassing a recognition of our right to enjoy legal capacity in all contexts.

Respecting our legal capacity would require the Australian governments to implement measures to support us as people with disability so we can exercise our legal capacity in accordance with Article 12 of the CRPD. Article 12 has been interpreted by the Committee on the Rights of Persons with Disabilities as requiring the repeal of legislation providing for substitute decision-making, such as guardianship and other measures facilitating the making of decisions on behalf of individuals on the basis of mental capacity tests.<sup>24</sup>

Australia has maintained interpretive declarations stating its position that substitute decision-making regimes do not breach the CRPD's provisions,<sup>25</sup> thereby denying us our rights as full citizens. Despite this, PWDA believes that Australian governments should take action to implement Article 12 to the greatest extent possible.

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<sup>24</sup> Committee on the Rights of Persons with Disabilities, *General Comment No. 1* (2014) (19 May 2014), CRPD/C/GC/1, 6.

<sup>25</sup> For example, Australia, Ratification (with Declarations), registered with the Secretariat of the United Nations 17 July 2008, 2527 UNTS 289 (date of effect 16 August 2008).

This means that consideration should always be given, when enacting new legislation and reviewing existing laws, to how to minimise deprivations of legal capacity as well as how to enable and facilitate supported decision-making measures, with a view to progressive dismantling of the substituted decision-making regime.

In addition to the judiciary, legal professionals and court staff, we suggest this section include mention of the staff of administrative agencies in facilitating and delivering access to justice including through complaints processes.

Policy Direction 4 affirms people with disability should be safe from violence, exploitation and neglect.

PWDA believes people with disability should both feel and be safe from violence, abuse, neglect, exploitation, torture and cruel, inhuman or degrading treatment or punishment. We see it as essential that Australia ensures our right to be free and safe from torture, violence and interference with bodily integrity under articles 15, 16 and 17 of the UN CRPD across all settings, both within and outside the home.

We note people with disability have been calling for a Royal Commission into violence against people with disability for many years and we are following the activities of the resulting Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability closely. We are also campaigning through the Disabled People's Organisations Australia for the Australian Government to #MakeItSafeToSpeak to the Disability Royal Commission to ensure people's right to give evidence in anonymity be guaranteed in perpetuity, consistent with other rights abuse victims have such as sexual abuse whose anonymity in media reports must be maintained unless they waive that right. We must allow people full privacy protections so they can potentially protect themselves from retribution from perpetrators, who they might still depend upon. We believe this change should be made swiftly and must not be delayed until 2021.

Tragic recent deaths of people with disability, including Ann Marie Smith, Willow Dunn and David Harris underscore the need for urgent attention on strengthening safeguarding measures to prevent violence, abuse and exploitation of people with disability at the state and territory and federal levels, within and beyond the NDIS. These measures should include the establishment of a national disability watchdog to respond to instances of violence against people with disability, full implementation of Australia's obligations as a state party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)<sup>26</sup>, and ending forced and non-consensual medical treatments imposed upon people with disability.

People with disability are at heightened risk of violence in institutional environments. The progressive closure of institutions and community-based residential options for people with disability is imperative to prevent violence against people with disability. Specific measures to address gender-based violence are also essential.

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<sup>26</sup> See <https://humanrights.gov.au/our-work/rights-and-freedoms/projects/opcat-optional-protocol-convention-against-torture>

In addition to discussion about the significant overrepresentation of people with disability in the criminal justice system as offenders and prisoners, PWDA is of the view that additional recognition of discrimination faced by victims of crime within the criminal justice system would strengthen this policy direction. Prosecutions are far less common when people with disability are victims because of stereotypes and discriminatory attitudes driving decision making, in addition to lack of adequate support measures to enable people to participate in criminal processes effectively.

This policy direction should also refer to the situation of forensic patients, and in particular people with disability who have not been convicted of an offence who are managed in prisons and forensic facilities. The unwarranted use of prisons and forensic mental health facilities for the management of unconvicted people with disability needs to be urgently addressed, and Australian governments should also urgently consider the compliance of forensic mental health laws and systems with Australia's human rights obligations.

PWDA would like to see a policy direction focused on the rights of children and young people included in the National Disability Strategy to recognise the importance of children and young people with disability growing up free from discrimination and violence, and enabled to participate in all aspects of life, so they can realise their full potential.

We propose that this policy direction be worded similarly to:

Children and young people with disability fully enjoy their human rights, and the views of children and young people with disability on matters affecting them are given due weight.

Two vital steps in rights protection for children and young people with disability are:

- Reviewing and revising legislation and policies to ensure they effectively incorporate and protect CRPD rights.
- Ensuring children and young people can participate in decision-making processes affecting their lives.

### **Outcomes to be achieved**

The outcomes for people with disability include, but are not limited, to the following:

- People with disability are supported to participate in all aspects of the justice system.
- People with disability enjoy legal capacity in all aspects of life.
- People with disability feel safe and are safe from violence, abuse, neglect, exploitation and torture.
- The proportion of offenders with disability and people with disability in prisons is reduced dramatically.

- People with disability in prisons and forensic mental health facilities can access needed services and are supported to transition into community living.
- The views of children and young people with disability are respected in decision-making processes affecting their lives.

### **How we will measure our progress in this outcome area**

People with disability have our rights promoted, upheld and protected and are safe, and feel safe, from violence, abuse, neglect, exploitation and torture.

### **Key actions**

1. Increase campaigning to enhance awareness of the rights of people with disability among the general public in addition to campaigns targeting particular sectors including the justice and education systems.
2. Withdraw Australia's interpretative declarations to articles 12, 17 and 18 of the UN CRPD, which prevent reform and allow for human rights violations including the denial of legal capacity, forced treatments, and discrimination against non-Australian citizens with disability seeking to enter or remain in Australia.
3. Further develop measures to support people with disability to exercise our legal capacity in all contexts, accompanied by measures to progressively reduce substitute decision-making arrangements, moving towards elimination of substitute decision-making.
4. Incorporate UN CRPD rights into legislation, policies and programs that apply to children and young people, and develop mechanisms to ensure that children and young people with disability can participate in consultations, decision-making processes and policy development that affect their lives.
5. Develop a national plan for the closure of residential institutional environments, and develop genuine community-based housing and support options for people with disability.
6. Strengthen anti-discrimination laws to: address intersectional discrimination; enable representative complaints; enable complaints regarding disability hate crimes; and ensure people with disability can effectively make complaints about denial of reasonable accommodation.
7. Develop and enact national legislation on the prevention of all forms of gender-based violence.
8. Incorporate a redress mechanism into, or at the conclusion of, the current Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, and implement the recommendations of the Disability Royal Commission.
9. Establish a national accessible oversight, complaint and redress mechanism for people with disability who have experienced violence, abuse, exploitation or neglect in all settings, including all those not eligible for the NDIS and, particularly, older women with disability who are especially at risk.
10. Incorporate CRPD rights into legislation, policies and programs that apply to children and young people; and develop mechanisms to ensure that children and young people

with disability can participate in consultations, decision-making processes and policy development that affect their lives.

11. Fully implement Australia's obligations as a state party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with formal implementation of the National Preventative Mechanism network as soon as possible.
12. Implement legislation prohibiting the use of restrictive practices, and medical interventions made on people with disability without their consent, including electroconvulsive therapy, forced administration of psychiatric medications, forced sterilisation of children, young people and adults, the administration of contraception and the imposition of abortion procedures on women and girls with disability.
13. Adopt clear legislative provisions to prevent invasive and irreversible medical interventions being imposed on intersex people before they reach the age of consent.
14. Urgently address the over-representation of people with disability in the criminal justice system, and end the unwarranted use of prisons and forensic mental health facilities for the management of unconvicted people with disability.
15. Comprehensively consider the compliance of forensic mental health laws and systems with Australia's human rights obligations.

## Personal and community support

**People with disability, their families and carers have access to a range of well-coordinated and effective disability services and supports that are appropriate for their needs.**

People with Disability Australia believes **personal and community support** is vital for people with disability.

We as people with disability have a right to access equitably all reasonable and necessary supports that are delivered by providers we choose and who meet all of our needs at all times.

Access to personal and community supports must support our equal and full participation in the social, cultural, economic and political life of Australia, and must include all mental, physical, emotional and sexual needs of people with disability.

It is vital that our right to access personal and community supports can be enjoyed without discrimination, with all steps taken to ensure accessing supports is not based on whether we have access to the National Disability Insurance Scheme. This means, all state and Commonwealth mainstream systems must be equipped to provide services for all people with disability in all locations.

For those of us who have access to the NDIS, access to the scheme must be equitable and timely, with adequate and timely support to assist us to use our NDIS plans fully.

All of us with disability must be provided with information and advocacy supports from sources we trust, both digital and in person, to help us navigate and manage providers that suit our needs.

Therefore, PWDA's suggested wording for the **personal and community support** outcome is:

People with disability [have the right to access all] supports that [promote the equal and full participation of people with disability in all aspects of our lives. The delivery of these supports must be well coordinated, and meet all of our disability needs at all times in all locations, to the level of support that is required. Accessing these supports must be timely and continuous, irrespective of whether a person has access to the National Disability Insurance Scheme. To ensure access to supports that meet the needs of people with disability, we must also be provided with information and advocacy supports to navigate providers and to ensure the quality of supports being delivered.]

### Outcomes to be achieved

The outcomes for people with disability include, but are not limited, to the following:

- People with disability access all reasonable and necessary supports to participate in all aspects of our lives equally and fully.
- People with disability receive quality supports that meet all of our needs, in all locations, at all times.
- People with disability access the NDIS in an equitable and timely manner.
- People with disability are supported to fully use their NDIS plans.
- People with disability successfully navigate and access providers that suit their needs and are of their choosing.
- People with disability equitably access all mainstream service systems.
- People with disability access sources of information they trust.
- People with disability successfully advocate for the full realisation of their rights.

The targeted action plan should recognise and refer directly to Australia's obligations under the UN Convention on the Rights of Persons with Disabilities. And, in particular:

#### **Article 25 – Health**

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- Provide these health services as close as possible to people's own communities, including in rural areas;
- Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
- Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

#### **Article 28 – Adequate standard of living and social protection**

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.
2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:
  - a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
  - b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
  - c. To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;
  - d. To ensure access by persons with disabilities to public housing programmes;
  - e. To ensure equal access by persons with disabilities to retirement benefits and programmes.

## How we will measure our progress in this outcome area

All people with disability access the reasonable and necessary supports they need to participate equally and fully in all aspects of their lives, and are supported to navigate providers and advocate for the full realisation of their rights.

### Key actions

1. Invest adequately in independent advocacy and representation that meets all needs.
2. Withdraw Australia's interpretive declaration on Article 12, to promote supported decision-making processes that promote evidence-based best practice approaches that support informed choice and control in provider decisions.
3. Regularly collect and publish information on the experiences people with disability have with disability support providers.
4. Invest adequately in support coordination according to need.
5. Clearly articulate the roles, responsibilities and activities for those responsible for disability supports market stewardship and workforce development.
6. Release a Provider of Last Resort policy.
7. Clarify the boundaries between the NDIS and mainstream service systems, and where gaps exist, develop, implement and resource a plan to address gaps.
8. Ensure equitable and timely access to the NDIS regardless of disability.
9. Define what is considered reasonable and necessary under the *National Disability Insurance Act 2013*, so there is certainty about what supports can be funded under the scheme.
10. Create a national independent oversight mechanism with powers to effectively protect, investigate and enforce findings, including but not limited to, the powers to prohibit restrictive practices and involve people with disability in a co-design capacity.

## Learning and skills

**People with disability have opportunities to participate in high-quality education system that is responsive to their needs. People with disability have opportunities to continue learning throughout their lives in both formal and informal settings.**

**This outcome area would be better titled: Education and Learning**

People with disability have a right to a high-quality education. Inclusive education is vital to turning the disadvantages people with disability face as a result of their impairments.

Inclusive education must be realised without discrimination and on the basis of equal opportunity. Education is key to supporting our right to the full development of our potential, and accessing inclusive education recognises our inherent dignity and self-worth.

Students with disability must be able to participate in an inclusive high-quality education in a mainstream setting, with the right supports at school and in the community to be able to participate fully by ensuring all reasonable accommodations are met and are supported.

An inclusive education must also ensure we are ready to participate in the community after our schooling. This means students with disability must be supported to realise our aspirations and further options after school, so we can access further education and open employment.

PWDA also endorses the Australian Coalition for Inclusive Education's (ACIE) *Driving change: A roadmap for achieving inclusive education in Australia* in full.<sup>27</sup>

Therefore, PWDA's suggested wording for the Education and Learning outcome is:

People with disability have the right to participate in a high-quality education that is responsive to our needs. People with disability must have equal opportunity to continue learning throughout our lives in mainstream settings and be supported fully in each education setting. People with disability must also be supported to realise our aspirations and options, so we can be supported to pursue further learning and open employment.

### Outcomes to be achieved

The outcomes for people with disability include, but are not limited, to the following:

- People with disability are supported to participate in fully inclusive mainstream education.

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<sup>27</sup> Australian Coalition for Inclusive Education, *Driving change: A roadmap for achieving inclusive education in Australia*, <https://www.cyda.org.au/resources/details/149/acie-driving-change-a-roadmap-for-achieving-inclusive-education-in-australia>

- People with disability are supported to realise their aspirations and further options after compulsory schooling.
- People with disability are supported to pursue further education and training.
- People with disability are supported to transition into open employment based on our educational outcomes.
- People with disability have all reasonable accommodations met in all education settings.

The targeted action plan should recognise and refer directly to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities. And, in particular:

**Article 24 – Education**, which articulates the following obligations:

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:
  - a. The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;
  - b. The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;
  - c. Enabling persons with disabilities to participate effectively in a free society.
2. In realizing this right, States Parties shall ensure that:
  - a. Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
  - b. Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
  - c. Reasonable accommodation of the individual's requirements is provided;
  - d. Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
  - e. Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.
3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:
  - a. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
  - b. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
  - c. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all

levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

## **How we will measure our progress in this outcome area**

All students with disability are welcomed as valued learners, are fully included in mainstream education, are supported to realise their aspirations and options after schooling, and are fully supported to transition into post-school options.

### **Key actions**

1. End all segregated education.
2. Transition all segregated students with disability into mainstream education, ensuring age-appropriate settings for all students at all levels, in particular Aboriginal and Torres Strait Islander students.
3. Develop, implement and resource a National Action Plan for Inclusive Education, that includes a legislative and policy framework consistent with Article 24 and General Comment No. 4.
4. Review, in consultation with disability representative organisations, the Disability Standards for Education 2005.
5. All state and territory governments develop and implement a transparent improvement framework for inclusive education, with an independent national oversight body created and resourced to oversee national improvement.
6. Ensure adequate and needs-based funding for best practice improvement methods to be used in all schools.
7. Amend the *Disability Discrimination Act 1992* to ensure all reasonable accommodations are met, so all students are learning the same curriculum as their peers, reasonably adjusted and differentiated to a student's needs.
8. Embed Universal Design for Learning principles in all aspects of education design and delivery, so class lessons are accessible to the greatest number of students.
9. Increase the retention of students with disability until year 12, and the rate of young people with disability enrolled in higher education and vocational education and training.
10. Record and monitor data on students with disability, including the use of restrictive practices and punitive and disciplinary measures.

## Health and wellbeing

**People with disability attain the highest possible health and wellbeing outcomes throughout their lives.**

People with disability have a right to attain and maintain the best possible **health and wellbeing** throughout our lives. Our health and wellbeing is critical to our capacity to participate fully in the social, economic, cultural and political life of Australia.

To attain and maintain the best possible health and wellbeing of people with disability, we must be recognised as experts on what our health and disability support needs are. This means we must be supported to fully exercise our legal capacity to choose and control how we manage our health and wellbeing, with health information we can access.

Together with our chosen supporters, we must also be supported to express and act on our will and preferences for how we manage our health and wellbeing. This must include our right to take risks, as a key way of maintaining our bodily autonomy in all decisions that affect our health and wellbeing.

To support us attaining the best possible health and wellbeing outcomes, our treating professionals must also be supported to provide appropriate care regardless of our disability, by not misattributing medical conditions to our disability, by ensuring the robust collection of data on our health, and trained to address our needs including our will and preference.

Therefore, PWDA's suggested wording for the Health and Wellbeing outcome is:

People with disability [have the right and help to] attain the [best] possible health and wellbeing outcomes throughout their lives. [People with disability must maintain their bodily autonomy by exercising their legal capacity to choose and control how they manage their health and wellbeing. The will and preferences of people with disability must be respected, by ensuring our treating professionals are supported to provide an adequate standard of health care that reflects our informed choices. All health information must be accessible to us.]

### Outcomes to be achieved

The outcomes for people with disability include, but are not limited, to the following:

- People with disability make informed choices and can exercise choice and control over decisions that affect their health and wellbeing.
- People with disability access NDIS services and supports that promote their health and wellbeing at all stages of life, in all locations and at all times.
- All people with disability access mainstream and community supports that promote their health and wellbeing at all stages of life, in all locations and at all times.

- The bodily autonomy of people with disability is respected.
- The will and preference of people with disability are understood, respected and acted upon.
- People with disability access treating professionals who are trained to understand, provide and meet the needs and standard of care for all medical and disability needs.
- Policies on the health and wellbeing of people with disability are based on robust data and evidence-based approaches.
- People with disability access health information they can understand.

The targeted action plan should recognise and refer directly to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities. And, in particular:

**Article 17 – Integrity of the person**, which articulates the following obligations:

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

**Article 25 – Health**, which articulates the following obligations:

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;
- Provide these health services as close as possible to people's own communities, including in rural areas;
- Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
- Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

## **How we will measure our progress in this outcome area**

All people with disability are recognised as experts on how to manage their health and wellbeing, by being supported to exercise their legal capacity to make any decision that affects their health and wellbeing, by having their bodily autonomy and will and preferences respected, and by accessing services and supports that promote and meet all their health and wellbeing at all stages of life, in all locations and at all times

### **Key actions**

1. Ensure all health services and supports are provided to all people with disability with their free and informed consent, and based on the disabling nature of functional or social impairments, irrespective of eligibility for the NDIS.
2. Adequately resource all personal and community health services and supports to assist people with disability and the general community, so people with disability can set goals for, and attain the best possible health and wellbeing outcomes themselves.
3. Develop and enact national, uniform and legally enforceable legislation prohibiting the sterilisation of children and adults, in the absence of their prior, fully informed and free consent.
4. Develop and enact national, uniform and legally enforceable legislation prohibiting unnecessary medical interventions, including but not limited to, surgical and hormonal interventions on intersex children and adults without their prior, fully informed and free personal consent.
5. Implement measures to address the poor health outcomes of people with disability, with a particular focus on First Nations people with disability, people with intellectual disability, people with psychosocial disability and women with disability.
6. Create and resource a national network of intellectual disability health specialists to enhance the capacity of mainstream services to cater to the specific needs of people with intellectual disability.
7. Adequately resource peer-managed mental health services and programs that ensure alternatives to forced confinement and treatment, and that support people with psychosocial disability regardless of NDIS eligibility.
8. Enshrine the value of preventative healthcare and early intervention in the delivery of all health services in Australia to limit the development of disability in the community.
9. End all discrimination in all service delivery settings, particularly for young people, people aged between 18 and 65 years of age, and older people with disability, by ensuring equal access to all services and supports for all people with disability, particularly by private health insurance companies and assisted reproductive therapy providers.
10. Develop a national mechanism that enables the collection of disaggregated data on the health of people with disability.

# Question 2 — Guiding principles

What do you think about the guiding principles proposed here?

- **Are there other principles that would help ensure policies and programs are right for people with disability, their family and carers?**
- **What information or guidance could help organisations to use and adhere to these principles?**

People with Disability Australia agrees a coordinated effort is required from the community as a whole to remove barriers, support economic participation and promote social inclusion. However, it is vital that leadership is provided from the national Government and states and territories.

PWDA agrees the guiding set of principles is important to set the agenda for the development of policy and design of programs, and improve people's focus on community attitudes.

We note that the proposed principles are:

- **Involve and engage:** has the policy or program designer engaged with and listened to people with disability?
- **Design universally:** have the principles of universal design been applied where possible?
- **Engage the broader community:** how has the broader community been informed of, involved in and made responsible for removing barriers and supporting the inclusion of people with disability?
- **Address barriers faced by priority populations:** how have the priority populations (noted by the National Disability Strategy) been identified? What action has been taken to specifically address the barriers they may experience?
- **Support carers and supporters:** how have the needs of the family, carers and circles of information and formal support for the person with disability been considered?

PWDA supports these guiding principles but note they could be given a different priority order to reflect the process that policy and program designers must follow. As a result we have made the following recommendation in a different prioritised order:

We note the importance Australia is placing on carers and other supporters but would like to highlight that people with disability have the right to be at the centre of their own decision-making. Carers preferences should not be central to decision-making or program design. Our needs and wants as people with disability should instead be paramount.

PWDA agrees the guiding principles must include those stated in Article 3<sup>28</sup> of the United Nations Convention on the Rights of Persons with Disabilities. These principles are:

#### **Article 3 – General principles**

1. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
2. Non-discrimination;
3. Full and effective participation and inclusion in society;
4. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
5. Equality of opportunity;
6. Accessibility;
7. Equality between men and women;
8. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

PWDA also agrees further principles are required to act as a guide for Australia and its federal, state and local governments, and community members. We believe some of these extra principles can be found in Article 4<sup>29</sup> of the UN CRPD, which states:

#### **Article 4 – General obligations**

1. States Parties undertake to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities without discrimination of any kind on the basis of disability. To this end, States Parties undertake:
  - a. To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention;
  - b. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
  - c. To take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
  - d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
  - e. To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
  - f. To undertake or promote research and development of universally designed goods, services, equipment and facilities, as defined in article 2 of the present Convention, which should require the minimum possible adaptation and the least cost to meet the specific

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<sup>28</sup> Article 3 of the United Nations Convention on the Rights of Persons with Disabilities

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-3-general-principles.html>

<sup>29</sup> Article 4 of the UN CRPD <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-4-general-obligations.html>

- needs of a person with disabilities, to promote their availability and use, and to promote universal design in the development of standards and guidelines;
- g. To undertake or promote research and development of, and to promote the availability and use of new technologies, including information and communications technologies, mobility aids, devices and assistive technologies, suitable for persons with disabilities, giving priority to technologies at an affordable cost;
  - h. To provide accessible information to persons with disabilities about mobility aids, devices and assistive technologies, including new technologies, as well as other forms of assistance, support services and facilities;
  - i. To promote the training of professionals and staff working with persons with disabilities in the rights recognized in the present Convention so as to better provide the assistance and services guaranteed by those rights.
2. With regard to economic, social and cultural rights, each State Party undertakes to take measures to the maximum of its available resources and, where needed, within the framework of international cooperation, with a view to achieving progressively the full realization of these rights, without prejudice to those obligations contained in the present Convention that are immediately applicable according to international law.
  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.
  4. Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of persons with disabilities and which may be contained in the law of a State Party or international law in force for that State. There shall be no restriction upon or derogation from any of the human rights and fundamental freedoms recognized or existing in any State Party to the present Convention pursuant to law, conventions, regulation or custom on the pretext that the present Convention does not recognize such rights or freedoms or that it recognizes them to a lesser extent.
  5. The provisions of the present Convention shall extend to all parts of federal States without any limitations or exceptions.

Australia has so far failed to make significant progress in implementing the National Disability Strategy 2010-2020 – with the exception of the introduction of the NDIS. We believe these general obligations highlight what needs to be done moving forward. Australia needs more detailed and specific outcomes for its NDS and a resourcing of the strategy to bring about meaningful change for the majority of people with disability. We believe Australia should firmly commit to these obligations as part of a wider outcomes framework to bring about real change.

In the following sections we note the guiding principles Australia is committing to and outline key actions the nation can take to prioritise these principles.

## Involve and engage

**Involve and engage: has the policy process or program design engaged with and listened to people with disability at all stages of planning and implementation and provided accessible information and opportunities for feedback?**

People with Disability Australia believes Australia should **involve and engage** people with disability in relation to policy and program design.

We believe this guiding principle is consistent with the rights outlined in Article 4(3)<sup>30</sup> of the United Nations Convention on the Rights of Persons with Disabilities which states “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.”

PWDA notes the UN Committee on the Rights of Persons with Disabilities expressed its concerns about the implementation of Article 4 of the UN CRPD in paragraphs 5 and 7 of its *Concluding Observations*<sup>31</sup> last year published after its national review. We share concerns about:

- The weakness of the mechanisms and the limited funding available under the National Disability Strategy for the full and effective engagement of persons with disabilities, through representative organizations, in policy development, implementation and monitoring of actions relating to the convention.
- The unsustainability and inadequacy of resources for continuous, individual and independent advocacy programs.
- The mechanisms to ensure the active participation of persons with disabilities, through their representative organizations, in the implementation and monitoring of the convention.

### Key actions

As the Committee on the Rights of Persons with Disabilities outlined in paragraphs 6 and 8 of its *Concluding Observations*, we believe there are key actions needed to improve engagement and involvement for Australia’s National Disability Strategy.

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<sup>30</sup> Article 4 of the UNCRPD, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-4-general-obligations.html>

<sup>31</sup> *Concluding Observations on the Combined Second and Third Periodic Reports of Australia*, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/AUS/CO/2-3&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD/C/AUS/CO/2-3&Lang=En)

We outlined these actions in our Shadow Report, *Disability Rights Now 2019*<sup>32</sup>, as a member of the Disabled People's Organisation Australia, a signatory to the report.

Those involvement and engagement recommendations are:

1. Incorporate CRPD rights<sup>33</sup> into legislation, policies and programs that apply to children and young people; and develop mechanisms to ensure that children and young people with disability can participate in consultations, decision-making processes and policy development that affect their lives.
2. Establish a formal mechanism for meaningful engagement of people with disability in decision making and the implementation and monitoring of the CRPD in line with General Comment 7<sup>34</sup>.

The Committee had some sensible suggestions we agree with:

1. Fully harmonize domestic legislation with the convention by carrying out disability rights impact assessments on legislative changes that may affect the rights of persons with disabilities.
2. In close consultation with and with the effective participation of diverse organizations of persons with disabilities, ensure ... the next national disability strategy receive adequate resources, an implementation plan with measurable goals and a robust monitoring mechanism, a formal performance reporting framework and evaluation, governance and accountability requirements, including through the implementation of the recommendations made by the Productivity Commission.
3. Ensure people with disabilities are able to access continuous, sustainable and adequately resourced individual and independent advocacy programs, particularly people not part of the National Disability Insurance Scheme.
4. Establish formal and permanent mechanisms to ensure the full and effective participation of persons with disabilities, including children with disabilities, through their representative organizations, in the development and implementation of legislation and policies to implement the Convention, ensuring adequate resources and the provision of the necessary support.
5. Ensure Aboriginal and Torres Strait Islander people with disabilities and their representative organizations are particularly involved in all aspects of the design, implementation, monitoring and evaluation of the Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability.

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<sup>32</sup> Disabled People's Organisation et al., *Disability Rights Now 2019: Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disability: UN CRPD Review 2019*, <https://dpoa.org.au/rights-of-people-with-disability-routinely-ignored-new-report>

<sup>33</sup> UN CRPD, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/convention-on-the-rights-of-persons-with-disabilities-2.html>

<sup>34</sup> UN General Comment 7, <http://docstore.ohchr.org>

## Design universally

**Design universally: have the principles of universal design been applied where possible and has the project taken advantage of accessible and assistive technology where available?**

PWDA believes efforts to ensure **design universally** are vital to ensuring accessibility for people with disability.

**Universal design**, as it's defined in Article 2 of the United Nations Convention on the Rights of Persons with Disabilities, is "design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design."

Efforts to improve universal design to benefit an individual group of people with disability can improve their user experience. An added benefit is those improvements can also improve the experience for other groups of people with disability or the general population.

We support efforts to ensure that universal design has been applied where possible and assess whether projects or individual efforts have used accessible and assistive technologies when available.

PWDA supports the use of universal design for accessibility in proposed reforms to the National Construction Code, and outlined recommendations in relation to housing in the [Inclusive and accessible communities](#) section of this submission.

We have also endorsed the *National Disability Strategy Position Paper* submissions of the Australian Communications Consumer Action Network and the Assistive Technology for All alliance. The groups' recommendations, which we support, are found in [Appendix B](#) and [Appendix C](#) of this submission.

### Key actions

1. Adopt universal design principles in the National Construction Code.
2. Progress Australian Communications Consumer Action Network's recommendations for the National Disability Strategy.
3. Progress the Assistive Technology for All alliance's recommendations for the National Disability Strategy.

## Engage the broader community

**Engage the broader community: how has the broader community been informed of, involved in and been made responsible for removing barriers and supporting the inclusion of people with disability?**

People with Disability Australia believes in **engaging with the broader community**, as everyone has a role to play in removing barriers to inclusion for people with disability.

As the Australian Government Human Rights website identifies<sup>35</sup>, a definition of inclusion is a society where all individuals are able to: “secure a job; access services; connect with family, friends, work, personal interests and local community; deal with personal crisis; and have their voices heard.”

Ensuring inclusion is an important goal for Australia and one we support.

In the past, community engagement for the National Disability Strategy has been funded by government. An example is the Community Engagement Strategy for People with Disability that was funded in the 2010–11 budget.

At the time, the Australian Government outlined its motivations for providing \$520,000 funding for the NDS engagement strategy. These motivations included progressing its reform agenda with \$30,000 funding grants for disability groups to ensure a representative voice for people affected by reforms.

We believe the need to drive reform with community engagement is just as critical in the current pandemic and economic circumstances and we recommend governments direct appropriate and fair levels of funding for NDS engagement.

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<sup>35</sup> ‘Social inclusion and human rights in Australia’, *Australian Human Rights Commission*, <https://humanrights.gov.au/about/news/speeches/social-inclusion-and-human-rights-australia>

## Address barriers faced by priority populations

**Address barriers faced by priority populations: how have the priority populations noted by the National Disability Strategy been identified and what action has been taken to specifically address the barriers they may experience?**

People with Disability Australia believes efforts to **address barriers faced by priority populations** are vital to combatting disadvantage and working to make real change in people's lives.

We note the following priority populations named in the original *National Disability Strategy 2010–2020*<sup>36</sup> under 'An inclusive agenda':

- people of different education levels, gender, age, sexuality, ethnic or cultural background, or race
- women with disability
- men with disability
- women and men with disability experiencing violence
- Aboriginal and Torres Strait Islander Australians, or First Nations People as people are now also commonly known
- people from culturally and linguistically diverse backgrounds (CALD), including newly arrived refugees and humanitarian entrants
- people in rural and remote areas

PWDA notes the strategy highlighted sexuality as a point where people could differ from each other but believe people with disability who are members of the LGBTQ+ community – or lesbian, gay, bisexual, transgender, transsexual, two-spirit, queer, questioning, intersex, asexual, ally (LGBTQQIAA), pansexual, agender, gender queer, bigender, gender variant and pangender community – should be specifically identified as a priority population.

We acknowledge government statistics which show the majority of people receiving support under the National Disability Insurance Scheme are white males. We need to address the barriers faced by other groups trying or failing to access the scheme to ensure equitable access.

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<sup>36</sup> *National Disability Strategy 2010–2020*, <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020>

PWDA continues to stand by its recommendations on addressing barriers faced by priority populations in the *Disability Rights Now 2019*<sup>37</sup> shadow report the Disabled People's Organisation signed on our behalf. We have included those recommendations in key actions, below.

We note that in its *Concluding Observations*, the Committee on the Rights of Persons with Disabilities had its own views on what were priority populations for Australia. These included older persons with disability, people from CALD backgrounds or Aboriginal and Torres Strait Islander people with disability, women with disability, lesbian, gay, bisexual, transgender, intersex and queer persons with disability, people with intellectual disability, people with psychosocial disability, parents with disability, people who have experienced disability hate crimes and people who have been denied reasonable accommodation.

PWDA believes these groups highlighted by the Committee should also be identified as priority populations in Australia's National Disability Strategy.

The UN has flagged key recommendations for priority populations and we also support these as key actions going forward. We have included these recommendations below in the key actions we are recommending.

### **Key actions**

1. Strengthen anti-discrimination laws to address intersectional discrimination; enable representative complaints; enable complaints regarding disability hate crimes; and ensure people with disability can effectively make complaints about denial of reasonable accommodation.
2. Develop and enact national legislation on the prevention of all forms of gender-based violence.
3. Incorporate CRPD rights into legislation, policies and programs that apply to children and young people; and develop mechanisms to ensure that children and young people with disability can participate in consultations, decision-making processes and policy development that affect their lives.
4. Urgently address the over-representation of people with disability in the criminal justice system, and end the unwarranted use of prisons for the management of unconvicted people with disability.
5. Act to ensure that Auslan is recognised as a national language, and harmonise laws to ensure that people with disability, including deaf people are able to equally serve on juries.
6. Establish a nationally consistent framework for the protection of people with disability from behaviour modification and the elimination of restrictive practices across a broad range of settings.
7. Enact national uniform and enforceable legislation prohibiting sterilisation and medically unnecessary interventions of people with disability and people with intersex variations in the absence of their prior, fully informed and free consent.

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<sup>37</sup> Disabled People's Organisations Australia et al., *Disability Rights Now 2019: Australian Civil Society Shadow Report to the United Nations Committee on the Rights of Persons with Disability: UN CRPD Review 2019*, <https://dpoa.org.au/wp-content/uploads/2019/08/CRPD-Shadow-Report-2019-English-PDF.pdf>

8. Develop a national plan for the closure of residential institutional environments, and develop genuine community-based housing and support options for people with disability.
9. Take urgent action on discrimination against parents with disability, particularly action to address the high rate of child removal from parents with disability.
10. Develop a national disability employment strategy that contains targeted gendered measures for increasing workforce participation of people with disability, and that transitions people from segregated employment towards mainstream employment and provides equitable remuneration for work.
11. End ongoing eligibility restrictions for the disability pension, and increase the rate of income support payments to ensure access to an adequate standard of living.
12. Establish a formal mechanism for meaningful engagement of people with disability in decision making and the implementation and monitoring of the CRPD in line with General Comment 7.
13. Ensure no child is separated from their parents because of the disability of either the child or one or both of their parents.
14. Adopt comprehensive and gender-specific and culturally specific parenting and family support measures for parents with disability.
15. Ensure that women with disability and lesbian, gay, bisexual, transgender, transsexual, two-spirit, queer, questioning, intersex, asexual, ally, pansexual, agender, gender queer, bigender, gender variant and pangender people with disability have equal access to assisted reproductive technologies.
16. Develop a national poverty reduction plan that is inclusive and accessible to all people with disability and prioritise the realisation of the right to an adequate standard of living and social protection for Aboriginal and Torres Strait Islander people with disability.
17. End the eligibility restrictions on the Disability Support Pension, increase the rate of JobSeeker allowance unemployment payments and other income support payments such as Parenting Payment Single to ensure that people with disability have access to an adequate standard of living.
18. Ensure people with disability are included as a priority cohort in the implementation of poverty reduction and public housing programmes, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.

## Support carers and supporters

**Support carers and supporters: how have the needs of the family, carers and circles of information and formal support for the person with disability been considered in the development of the policy or program?**

While the needs of family members, carers and other circles of support should be factored into policies and programs, the Guiding Principles must focus on the needs of people with disability.

In accordance with Article 3 of the CRPD, the guiding principles should focus on respect for our inherent dignity, independence and autonomy, including the freedom to make our own choices.<sup>38</sup>

Accordingly, any questions about carers and supporters should be phrased in terms of how they can help us develop and maintain autonomy and independence, while respecting our dignity.

A key exercise of autonomy and independence is decision-making. Article 12 of the CRPD requires the Government to provide us with supports to exercise our legal capacity where needed.<sup>39</sup> The Government is also required to ensure that appropriate safeguards are put in place to protect our rights, will and preferences when making decisions.<sup>40</sup>

According to General Comment No. 1 (2014), this requires a shift from a substitute decision-making model to one that is based on supported decision-making.<sup>41</sup> In this light, the Government must establish, and the guiding principles must reference, a supported decision-making framework. Under that framework, supporters and carers would support us to make decisions and work with us to build our decision-making capacity, if needed.

In addition to referencing supported decision making, the Guiding Principles should also ask whether independent advocates and disability representative organisations have been consulted when developing policies and programs. These advocates and representative organisations help to make sure our voices are heard when the Government develops policies and programs.

### Key Actions:

- 1. Change the wording of Guiding Principle No.5 to focus on the needs of people with disability, rather than the needs of carers and supporters**
- 2. Establish a supported decision-making framework**
- 3. Ensure independent advocates and disability representative organisations are consulted when developing policies and programs.**

<sup>38</sup> *Convention on the Rights of Persons with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008) art 3(a).

<sup>39</sup> *Ibid* 12(3).

<sup>40</sup> *Ibid* 12(4).

<sup>41</sup> Committee on the Rights of Persons with Disabilities, *General Comment No.1 (2014) on the Right to Equal Recognition Before the Law*, UN Doc CPRD/C/GC/1 (11 April 2014) [3].

# Question 3 – A stronger focus on community attitudes

**What is your view on the proposal for the new Strategy to have a stronger emphasis on improving community attitudes across all outcome areas?**

People with Disability Australia agrees a major barrier to the full participation of people with disability in society is community attitudes, whether we are at work or taking part in community life.

Improved community attitudes and other specific measures across all outcome areas could help improve our employment opportunities, financial security, access and community involvement.

All levels of government have a role to play in encouraging more positive and disability-inclusive attitudes that will enable us to fully participate as equal members of the community.

Our suggestions for how governments – and the nation – can improve our employment outcomes, income support levels, NDIS and NDS support, and help protect us from violence are outlined in the recommendations we have highlighted in Question 1.

It is our hope that the strategy will foster and support ongoing attitudinal change in Australia's various communities so the rich contributions we make will be acknowledged in society.

## Key actions

1. Prioritise improving community attitudes as one of the goals of the National Disability Strategy and its implementation or outcomes framework.

# Question 4 – Clearly describing roles and responsibilities for government

**How do you think that clearly outlining what each government is responsible for could make it easier for people with disability to access the supports and services they need?**

People with Disability Australia agrees it is vital to highlight which governments, agencies and organisations are responsible for delivering services and supports to people with disability.

We believe that clearly outlining who is responsible for what could make it easier to know which services people can access. It is also important to ensure funding is allocated to ensure these communication goals can be reached.

We know that the interface between specialist disability supports delivered through the NDIS and mainstream services was a key issue that was highlighted in the Productivity Commission's review of the National Disability Agreement.<sup>42</sup>

PWDA notes there is growing evidence of disadvantage and hardship being experienced by people with disability who are not eligible for the National Disability Insurance Scheme, or top-tier NDIS plans, but who are no longer provided with disability services in their state or territory.

We believe the states and territories, and regulators and governments in these jurisdictions, should battle to ensure the continued availability of budgets for disability services to make sure the emerging gap in service delivery does not get wider.

We note there are many mainstream and disability services and supports that NDIS participants can access that are not part of the NDIS, and we believe the NDS has a role to play in promoting these services to encourage people to use them.

PWDA believes highlighting services people can use and how they can access them is important to ensuring people do not fall through the cracks.

## Key actions

1. Share information about services that are available at a federal, state, territory and local government level.

<sup>42</sup> <https://www.pc.gov.au/inquiries/completed/disability-agreement/report/disability-agreement.pdf>

2. Ensure services are retained at the state and territory level, so no person falls through the cracks and loses out on services they are eligible for.
3. Ensure NDIS participants are aware of alternative services they can access outside the scheme.

# Question 5 – Clearly describing roles and responsibilities across the broader community

**How do you think the Strategy should represent the role that the non-government sector plays in improving outcomes for people with disability? (Examples of the non-government sector include big, medium and small businesses, community organisations, employees of these businesses, private research, investment organisations and individuals.)**

PWDA is a disability community organisation that forms part of the wider advocacy community which lobbies government on important issues that affect people with disability.

We believe the strategy should acknowledge and fund organisations such as ours who play a policy role or engage in advocacy for people's interests, whether that be for individuals' interests or the interests of groups of people at a systemic level.

These interests could include inclusion or equity, whether at work or in the community or with service providers.

Other non-government sector entities the government could fund and include in its National Disability Strategy delivery model could include big, medium and small businesses, other types of community organisations, employees of these businesses, and private research or investment organisations, or individuals.

## Key actions

1. Properly fund independent disability advocacy at the federal, state and territory level to ensure the voices of people with disability are heard.
2. Continue to involve peak disability organisations in consultation efforts on the National Disability Strategy formation, roll-out and implementation.

# Question 6 – Measuring NDS outcomes and reporting on change for people with disability

**What kind of information on the Strategy's progress should governments make available to the public and how often should this information be made available?**

People with Disability Australia has long called for a robust system for monitoring and reporting on outcomes under the National Disability Strategy. We believe the new NDS must include appropriate levels of investment in an outcomes framework which tracks and reports on how the NDS is driving and delivering positive change in the lives of people with disability across Australia.

The framework must include accountability for monitoring and reporting, not only from the Australian Government but also from state, territory and local governments.

The outcomes framework must work from agreed population-based measures. We support the use of the indicators that have been developed and are being used for reporting at an international level through the United Nations.<sup>43</sup>

We note the current development of the National Disability Data Asset (NDDA) will be critical to achieving the level of monitoring and reporting on changes in the lives of people with disability.<sup>44</sup> It is critical that the new NDS moves away from its reliance on piecemeal activity-based reporting, which was a hallmark of the *National Disability Strategy 2010–2020*.

It is also critical that appropriate funding streams are available for Australian Government agencies, and state and territory governments and their agencies, as well as local governments to be able implement the targeted action plans that will deliver change and realise the rights of people of disability.

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<sup>43</sup> See for example, indicators for people with disability used in the following: United Nations 2018, *Disability and Development Report Realizing the Sustainable Development Goals by, for and with persons with disabilities*, <https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/07/disability-report-chapter2.pdf>

<sup>44</sup> <https://www.dss.gov.au/disability-and-carers-research-and-data/the-national-disability-data-asset>

The recently released Factsheet on People with Disability, developed to accompany the UPR NGO Coalition Report for Australia's Universal Periodic Review (UPR), highlights the challenges with the old systems of monitoring and reporting on the NDS and what needs to change for the new strategy.<sup>45</sup>

The factsheet states:

Key stakeholders, including the United Nations' Committee on the Rights of Persons with Disabilities and the Australian Government's Senate Standing Committee on Community Affairs, have highlighted issues with [the NDS's] efficacy, including the lack of:

- sufficient resources and funding for its implementation, monitoring and evaluation
- effective accountability, monitoring and evaluation mechanisms (e.g., there have been only two progress reports on the NDS, which generally provide anecdotal evidence for actions and initiatives taken, rather than evaluate outcomes and the success of the Strategy for people with disability)
- actions and measurable outcomes to address systemic human rights violations in health, employment, education, freedom from violence, and forced medical treatment and
- participation of people with disability and their representative organisations in its design, implementation and evaluation.

As the NDS is also siloed within the Australian Government Department of Social Services as a disability policy responsibility, there is limited authority to coordinate change across other Australian Government departments and state and territory jurisdictions.

Governments across Australia are now working together to design a new NDS to guide disability policy, programs, and legislation over the next 10 years – making this a ripe time to incorporate recommended reforms.

PWDA believes the new NDS must be properly resourced by the federal, state and territory governments. Transparent monitoring and evaluation of outcomes for people with disability must be linked to accountability measures across governments, ensuring targets are met. People with disability, and their representative organisations, must also be positioned at the centre of the NDS' development, implementation and monitoring.<sup>46</sup>

As a representative on the UPR NGO Coalition – the Universal Periodic Review coalition of non-government organisations – PWDA fully supports and commends these recommendations.

Further, at the time of writing, the Department of Social Services (DSS) has just launched a separate consultation process on the NDS Outcomes Framework. PWDA will be contributing to this consultation process.

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<sup>45</sup> *Factsheet People with Disability*, Australia's Human Rights Score Card #ausUPR20, <https://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/t/5f9b917ee7bfcd36e151af5a/1604030848547/UPR+Coalition+Factsheet+-+Rights+of+People+with+Disability.pdf>

<sup>46</sup> *Ibid.*,

PWDA believes reporting on the National Disability Strategy's progress should be made on annual basis through our parliaments. A report presented to the Australian Parliament, as well as to State and Territory Parliaments, demonstrates to us as people with disability and the wider Australian community that our nation is committed to our obligations to the UN CRPD and to realising the rights of people with disability.

PWDA proposes that responsibility for the strategy must rest with the Prime Minister and First Ministers of states and territories, and their departments – the Department of Prime Minister and Cabinet and the corresponding departments of premier and cabinet.

PWDA sees it as essential that progress with the NDS's specific, discrete targets are publicly reported upon so the United Nations, Australia and its disability representative organisations can determine how the lives of people with disability are improving, staying the same or worsening in this country.

We note the UN Committee on the Rights of Persons with Disabilities had views on what Australia could do to improve its implementation and reporting framework and outlined these in paragraphs 6(c) and 6(d) of its *Concluding Observations*.

We support these recommendations and have included them in our key actions, below.

PWDA also supports the reporting framework model similar to the *Closing the Gap* report.

We recommend the government takes this on board as it develops the latest NDS, a third implementation plan for the strategy and targeted action plans.

## Key actions

1. Place responsibility for the National Disability Strategy with the Prime Minister and the Department of the Prime Minister and Cabinet, and state-and-territory First Ministers and their departments of premier and cabinet.
2. Publicly report at least annually on progress with implementing the National Disability Strategy.
3. Develop a third implementation plan for the National Disability Strategy.
4. In close consultation with and with the effective participation of diverse organisations of people with disability, ensure the National Disability Strategy receives adequate resources, an implementation plan with measurable goals and a robust monitoring mechanism, a formal performance reporting framework and evaluation, governance and accountability requirements, including through the implementation of the recommendations made by the Productivity Commission.

# Question 7 – Targeted action plans to drive implementation

**What do you think of the proposal to have Targeted Action Plans that focus on making improvements in specific areas within a defined period of time (for example within one, two or three years)?**

People with Disability Australia believes targeted action plans that are centred on making improvements are a good way forward to ensure Australia focuses on real outcomes for people with disability.

We believe setting short, medium and long-term goals is a mature approach.

Like other strategies of government, traffic-light reporting, where achieved goals are marked in green, partly achieved goals coloured amber and stalled initiatives are marked red, could be one way to focus the nation on its shared responsibility for delivering real outcomes.

The topical areas we believe targets could focus on include:

- employment, or economic security
- housing, or inclusive and accessible communities
- income support, or economic security
- National Disability Insurance Scheme, or personal and community support, and health and wellbeing
- personal and community support, and health and wellbeing for people not on the NDIS
- preventing violence, or rights protection, justice and legislation.

We note the United Nations has recently published a *United Nations Disability Inclusion Strategy*<sup>47</sup> where it outlines indicators for judging how well people with disability have been included in society (see pages 12 to 19). We support these indicators as a way we can judge improvements over the time periods the government has chosen.

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<sup>47</sup> *United Nations Disability Inclusion Strategy*, [https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN\\_Disability\\_Inclusion\\_Strategy\\_english.pdf](https://www.un.org/en/content/disabilitystrategy/assets/documentation/UN_Disability_Inclusion_Strategy_english.pdf)

PWDA supports reporting over yearly time periods and longer periods of time such as two or three years.

### **Key actions**

1. Australia adopts the United Nations' indicators for assessing disability inclusion.
2. Australia produces targeted action plans to report upon at least annually.

# Question 8 – Engagement with people with disability

**How could the proposed Engagement Plan ensure people with disability, and the disability community, are involved in delivering and monitoring the next Strategy?**

People with Disability Australia notes Article 4 of the UN CRPD states: “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.”

As a Disabled People’s Organisation (DPO) governed by and representing people with disability, PWDA emphasises that it is critical that the new National Disability Strategy has a comprehensive engagement plan that is co-designed by people with disability and their representative organisations.

In addition, people with disability and their representative organisations must be appropriately resourced to participate in the development, monitoring and reporting on progress against the NDS and its associated targeted action plans. It is also vital that an engagement plan provides for resourcing of DPOs that are cross disability, and work with priority population groups such as women with disability, Aboriginal and Torres Strait Islander populations and people from culturally and linguistically diverse backgrounds.

PWDA would suggest the model for an engagement plan should enable people with disability and their representative organisations to have seats at the table in planning and monitoring mechanisms for the NDS. People with disability and their representative organisations should not simply be consulted on the development of “shaping future disability policies, programs and services” but rather be resourced to be active participants.

We also note that the NDS does not simply cover “disability policies, programs and services” but, in fact, extends to the way in which mainstream policies, programs and services are designed and delivered to be fully inclusive of people with disability.

PWDA would argue that a key focus of the next iteration of the NDS will be on addressing the multiple and multifarious barriers to inclusion and participation that exist across core mainstream services that should be universally accessible – education, health, employment, transport and housing to name but a few priority areas.

One example for an engagement mechanism that should be fully explored is the model that was used for the Framework for Protecting Australia's Children which included NGOs at the table alongside representatives from Australian Government, state and territory agencies.

PWDA recommends that there needs to be further consultations with people with disability on the development of an engagement plan as there is no specific proposal or framework provided in the position paper at this point.

We also note that there needs to be strong co-ordination between the Australian Government, states and territories and local governments.

At the time of writing, we are concerned that some states and territories are moving ahead with consultations on the relevant disability inclusion plans and reviews of their disability inclusion legislation. While we understand that sometimes policy development processes at the federal and state and territory level need to occur in parallel, we are concerned that state and territory governments are already consulting on their disability inclusion plans before the National Disability Strategy and targeted action plans have been finalised.

We look forward to continuing to work with the Australian Government, state and territory and local governments on the development of the NDS and its associated plans.

### **Key actions**

1. Ensure the new National Disability Strategy has a comprehensive engagement plan that is co-designed by people with disability and their representative organisations.
2. Appropriately resourced people with disability and their representative organisations to participate in the development, monitoring and reporting on progress against the NDS and its associated targeted action plans.
3. Enable people with disability and their representative organisations to have seats at the table in planning and monitoring mechanisms for the NDS.
4. Addressing the multiple and multifarious barriers to inclusion and participation that exist across core mainstream services that should be universally accessible, such as education, health, employment, transport and housing.
5. Explore using the engagement mechanism that was used for the Framework for Protecting Australia's Children as a model for the NDS.
6. Better co-ordinate NDS planning between the Australian Government, states and territories and local governments.

# Question 9 – Additional information

**Is there anything else you would like to share about the ideas and proposals in the position paper?**

Throughout this submission we have referred to the critical roles of the Australian Government, State and Territory Governments and Local Government in driving and delivering on goals under the new NDS.

We are concerned, with the recent shift from the arrangements of the Coalition of Australian Governments (COAG) to the formation of the National Cabinet, that Local Government does not have a seat within the National Cabinet.

We propose that the inclusion of Local Government in the NDS 2020-2030 must continue. Local Government is a key provider and stakeholder in several of the NDS outcome areas. Without the inclusion of Local Government, it will be particularly difficult to realise change for people with disability under Outcome Area 2: Inclusive and accessible communities. In addition, funding opportunities for Local Government to deliver on goals developed under the targeted action plans must be included within the new NDS.

# Consent to publish submission

PWDA agrees for the government to publish our submission. This agreement applies to the NDS website and any other channels the government may use.



# Appendix A – United Nations recommendations

People with Disability Australia acknowledges the United Nations Committee on the Rights of Persons with Disabilities recommended Australia take specific action in relation to its obligations under the United Nations Convention on the Rights of Persons with Disabilities.

These recommendations are contained in the UN committee's Concluding Observations on the Combined Second and Third Periodic Reports of Australia.

These recommendations are featured below, in the numbered paragraphs used in the *Concluding Observations*.

**A. General principles and obligations (arts. 1–4)**

6. The Committee recommends that the State party:

- (a) Fully harmonize domestic legislation with the Convention by carrying out disability rights impact assessments on legislative changes that may affect the rights of persons with disabilities;
- (b) Review and withdraw the interpretative declarations on articles 12, 17 and 18 of the Convention;
- (c) Roll out the third plan for implementing the National Disability Strategy;
- (d) In close consultation with and with the effective participation of diverse organizations of persons with disabilities, ensure that the National Disability Agreement and the next national disability strategy receive adequate resources, an implementation plan with measurable goals and a robust monitoring mechanism, a formal performance reporting framework and evaluation, governance and accountability requirements, including through the implementation of the recommendations made by the Productivity Commission;
- (e) Review disability assessment criteria for support schemes under the National Disability Insurance Scheme and align them with the human rights model of disability, ensuring adequate support for older persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds, Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities;
- (f) Simplify, clarify and make National Disability Insurance Scheme procedures more transparent, including by making information publicly available and accessible, and ensure that the Scheme meets the diverse and intersecting requirements of persons with disabilities in all areas;

(g) Ensure that persons with disabilities are able to access continuous, sustainable and adequately resourced individual and independent advocacy programmes, particularly those not part of the National Disability Insurance Scheme.

8. The Committee recommends that the State party, in line with the Committee's [general comment No. 7](#) (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention, establish formal and permanent mechanisms to ensure the full and effective participation of persons with disabilities, including children with disabilities, through their representative organizations, in the development and implementation of legislation and policies to implement the Convention, ensuring adequate resources and the provision of the necessary support. It recommends that the State party involve Aboriginal and Torres Strait Islander persons with disabilities and their representative organizations in particular in all aspects of the design, implementation, monitoring and evaluation of the Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability.

## **B. Specific rights (arts. 5–30)**

### **Equality and non-discrimination (art. 5)**

10. In line with its [general comment No. 6](#) (2018) on equality and non-discrimination, the Committee reiterates its previous recommendation ([CRPD/C/AUS/CO/1](#), para. 15) that the State party strengthen anti-discrimination laws, particularly the [Disability Discrimination Act 1992](#), to:

(a) Address and prohibit systemic, intersectional and multiple forms of discrimination, recognizing discrimination on a single or on multiple and/or intersectional characteristics and allowing for systematic complaints, representative and group actions and sanctions for addressing lack of access and discriminatory behaviour;

(b) Support persons with disabilities in making their own decisions, taking action and filing complaints, especially persons with high support requirements and persons with intellectual or psychosocial disabilities.

### **Women with disabilities (art. 6)**

12. In line with its general comment No. 3 (2016) on women and girls with disabilities and in view of targets 5.1, 5.2 and 5.5 of the Sustainable Development Goals, the Committee recommends that the State party strengthen measures to address multiple and intersectional forms of discrimination against women and girls with disabilities and, in particular, that it:

(a) Facilitate access to services under the National Disability Insurance Scheme for women and girls with disabilities, particularly those of Aboriginal and Torres Strait Islander background;

(b) Adequately support organizations and networks of women and girls with disabilities, particularly those representing Aboriginal and Torres Strait Islander women and girls with disabilities, to engage in all initiatives to promote gender equality and ensure their effective participation in the development of policies for gender equality and the advancement of women and girls.

### **Children with disabilities (art. 7)**

14. The Committee recommends that the State party:

- (a) Include a focus on the rights of children with disabilities in any national plan of action for the realization of the rights of the child;
- (b) Ensure access for children with disabilities to quality and human rights-based early intervention mechanisms;
- (c) Amend all legislation to guarantee that children with disabilities are provided with age-appropriate support and accommodations to express their views in all matters that affect their rights or interests;
- (d) Fund and resource culturally suitable support for Aboriginal and Torres Strait Islander children with disabilities and their families, in the local community;
- (e) Urgently remove all refugee and asylum-seeking children, particularly children with disabilities and their families, from detention facilities, ensure the provision of individualized support and recognize the denial of reasonable accommodation as a form of discrimination.

### **Awareness-raising (art. 8)**

16. The Committee recommends that the State party develop a national government strategy to promote a positive image and awareness of the rights of all persons with disabilities and that it ensure the consultation and participation of representative organizations of persons with disabilities, particularly women, Aboriginal and Torres Strait Islander persons, persons with disabilities from culturally and linguistically diverse backgrounds and lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities, in the development and delivery of all awareness-raising activities.

### **Accessibility (art. 9)**

18. In the light of article 9 of the Convention and its general comment No. 2 (2014) on accessibility, the Committee recommends that the State party, taking into account goal 9 and targets 11.2 and 11.7 of the Sustainable Development Goals:

- (a) Establish and enact a national framework for reporting compliance with the Disability Standards for Accessible Public Transport 2002, the Disability (Access to Premises – Buildings) Standards 2010 and the National Standards for Disability Services;
- (b) Amend the federal law by including mandatory rules on access for all new and extensively modified housing;
- (c) Take the necessary legislative and policy measures, such as the development of public procurement criteria, to implement the full range of accessibility obligations under the Convention, including regarding information and communications technologies and systems, and ensure effective sanctions measures for non-compliance.

### **Right to life (art. 10)**

20. The Committee recommends that the State party:

- (a) Address the low life expectancy of persons with disabilities, especially persons with intellectual disabilities and persons with disabilities within Aboriginal and Torres Strait Islander communities;
- (b) Ensure that its national mental health and suicide prevention plans include targeted measures for persons with disabilities, particularly children with disabilities, and develop, in consultation with Aboriginal and Torres Strait Islander persons with disabilities, culturally appropriate measures to prevent, identify and address the high rate of suicide among those populations;
- (c) Ensure a comprehensive approach to suicide prevention among persons with disabilities in the training of all professionals working with and for persons with disabilities, including health, social, education and community workers.

### **Situations of risk and humanitarian emergencies (art. 11)**

22. The Committee reiterates its previous recommendation on the matter ([CRPD/C/AUS/CO/1, para. 23](#)) and recommends that the State party, in close consultation with representative organizations of persons with disabilities, establish a fully accessible and inclusive mechanism to engage with persons with disabilities in the implementation and monitoring of the [Sendai Framework](#).

### **Equal recognition before the law (art. 12)**

24. Recalling its [general comment No. 1](#) (2014) on equal recognition before the law, the Committee recommends that the State party:

- (a) Repeal any laws and policies and end practices or customs that have the purpose or effect of denying or diminishing the recognition of any person with disabilities as a person before the law;
- (b) Implement a nationally consistent supported decision-making framework, as recommended in a 2014 report of the Australian Law Reform Commission entitled [Equality, Capacity and Disability in Commonwealth Laws](#).

### **Access to justice (art. 13)**

26. The Committee recommends that the State party, in close consultation with persons with disabilities, through their representative organizations, ensure effective access to justice for persons with disabilities, without any discrimination. It also recommends that the State party:

- (a) Develop legislation in all states on the equal participation of persons with disabilities in the jury system;
- (b) Develop nationally consistent disability justice plans across governments to ensure that persons with disabilities, particularly those whose reasonable and procedural accommodations are

not adequately met, are supported in accessing the same legal protections and redress as the rest of the community;

- (c) Bring all state, territory and federal legislation, including criminal laws and policies, in compliance with the Convention to ensure due process guarantees for all persons with disabilities and ensure a review of the legal situation of persons whose equal recognition before the law is restricted and who have been declared unfit to stand trial;
- (d) Address the overrepresentation of young Aboriginal and Torres Strait Islander persons in the juvenile justice system and implement the recommendations contained in Pathways to Justice – An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples;
- (e) Eliminate substitute decision-making, provide gender and culture-specific individualized support, including psychosocial support, for persons with disabilities in the justice system, make information accessible and provide community-based sentencing options;
- (f) Ensure that training modules on working with persons with disabilities and the Convention are incorporated into mandated training programmes for police officers, prison officers, lawyers, judicial officers, judges and court staff;
- (g) Collect data disaggregated by disability, age, gender, location and ethnicity at all stages of the criminal justice system, including on the number of persons unfit to plead who are committed to custody in prison and other facilities.

#### **Liberty and security of the person (art. 14)**

28. The Committee, recalling its guidelines on the right to liberty and security of persons with disabilities (A/72/55, annex), urges the State party to:

- (a) Repeal any law or policy and cease any practice or custom that enables the deprivation of liberty on the basis of impairment and that enables forced medical interventions on persons with disabilities, particularly Aboriginal and Torres Strait Islander persons with disabilities;
- (b) Implement the recommendations contained in the Senate Community Affairs References Committee 2016 report Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia;
- (c) Stop committing persons with disabilities to custody and for indefinite terms or for terms longer than those imposed in criminal convictions;
- (d) Collect data on the number of persons indefinitely detained and on the number of such persons detained on an annual basis, disaggregated by the nature of the offence, the length of the detention, disability, Aboriginal and other origin, sex, age and jurisdiction, with the aim of reviewing their detention;
- (e) End the practice of detaining and restraining children with disabilities in any setting.

### **Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)**

30. The Committee urges the State party to:

- (a) Establish a nationally consistent legislative and administrative framework for the protection of all persons with disabilities, including children, from the use of psychotropic medications, physical restraints and seclusion under the guise of “behaviour modification” and the elimination of restrictive practices, including corporal punishment, in all settings, including the home;
- (b) Introduce policies and measures to protect persons with disabilities, including young Aboriginal and Torres Strait Islander persons with disabilities and persons with intellectual or psychosocial disabilities, from abuse by fellow prisoners and prison staff and ensure that persons with disabilities cannot be held in solitary confinement;
- (c) Ensure that organizations of persons with disabilities can effectively engage in the establishment and work of the national preventive mechanism.

### **Freedom from exploitation, violence and abuse (art. 16)**

32. The Committee recommends that the State party:

- (a) Establish a national accessible oversight, complaint and redress mechanism for persons with disabilities who have experienced violence, abuse, exploitation and neglect in all settings, including all those not eligible for the National Disability Insurance Scheme and, particularly, older women with disabilities;
- (b) Ensure adequate resources and a redress mechanism for the Royal Commission into Violence, Abuse, Neglect and Exploitation of Persons with Disabilities;
- (c) Implement the recommendations contained in the report of the Australian Human Rights Commission A Future without Violence;
- (d) Ensure the inclusion of women and girls with disabilities in the National Plan to Reduce Violence against Women and their Children 2010–2022, beyond project-based programmes and activities;
- (e) Ensure gender- and age-sensitive services to address gender-based violence that are inclusive and accessible to all women and girls with disabilities and ensure that staff are adequately trained;
- (f) Address the methodological restrictions in data-collection instruments used to capture data on violence against women and girls with disabilities.

### **Protecting the integrity of the person (art. 17)**

34. The Committee urges the State party to:

- (a) Review and amend laws, including the section of the Family Law Rules 2004 relating to applications for medical procedures, in line with the Convention and adopt uniform legislation

prohibiting, in the absence of free and informed consent, the sterilization of adults and children, the administration of contraception and the imposition of abortion procedures on women and girls with disabilities;

(b) Adopt clear legislative provisions that explicitly prohibit the performance of unnecessary, invasive and irreversible medical interventions, including surgical, hormonal or other medical procedures on intersex children before they reach the legal age of consent; also provide adequate counselling and support for the families of intersex children and redress to intersex persons having undergone such medical procedures;

(c) Prohibit the use of non-consensual electroconvulsive therapy on the basis of any form of impairment.

### **Liberty of movement and nationality (art. 18)**

36. The Committee recommends that the State party:

(a) Review and amend its migration laws and policies to ensure that persons with disabilities do not face discrimination in any of the formalities and procedures relating to migration and asylum and, especially, remove the exemption in the Disability Discrimination Act 1992 to certain provisions of the Migration Act 1958;

(b) Remove the 10-year qualifying period for migrants to access the Age Support Pension and the Disability Support Pension;

(c) Cease the transfer of refugees and asylum seekers, particularly persons with disabilities, to Nauru, Papua New Guinea and other “regional processing countries”, as requested by the Office of the United Nations High Commissioner for Refugees in a factsheet on the protection of so-called “legacy caseload” asylum seekers, and establish a minimum standard of health care and support for persons with disabilities held in immigration detention.

with disabilities, living in aged care facilities, but does not end the practice.

### **Living independently and being included in the community (art. 19)**

38. The Committee recommends that the State party:

(a) Develop a national framework aimed at closing all disability-specific residential institutions and preventing transinstitutionalization, including by addressing how persons with disabilities not eligible for the National Disability Insurance Scheme can be supported to transition from living in an institution to living independently in the community;

(b) Increase the range, affordability and accessibility of public and social housing for persons with disabilities, including by implementing a quota for accessible social housing and by developing regulations and standards to guarantee the progressive application of universal design principles in accessible housing;

(c) Revise the Younger People in Residential Aged Care action plan to ensure that by 2025 no person under 65 years of age enters or lives in residential aged care.



### **Personal mobility (art. 20)**

40. The Committee recommends that the State party, in partnership with Aboriginal and Torres Strait Islander persons with disabilities, through their representative organizations and in their communities, develop locally relevant solutions to address the underlying structural obstacles that can preclude the use of aids and equipment within Aboriginal and Torres Strait Islander communities and in remote areas.

### **Freedom of expression and opinion, and access to information (art. 21)**

42. The Committee recommends that the State party develop a plain language law requiring government agencies to use clear communication and that it also develop legally binding information and communications standards so that information, particularly all information about significant changes to laws, policies, systems and obligations, is provided in accessible modes, means and formats, including Braille, Easy Read and sign language (Auslan), and that communication supports are routinely available. It also recommends that the State party promote and support the use of sign language (Auslan) and take steps to ensure the availability of qualified sign language interpreters.

### **Freedom of expression and opinion, and access to information (art. 21)**

44. The Committee recommends that the State party:

- (a) Ensure that no child is separated from his or her parents because of the disability of either the child or one or both of the parents;
- (b) Adopt comprehensive and gender- and culturally-specific parenting and family support measures for parents with disabilities;
- (c) Ensure that women with disabilities and lesbian, gay, bisexual, transgender, intersex and queer persons with disabilities have equal access to assisted reproductive technologies.

### **Education (art. 24)**

46. In line with the Committee's general comment No. 4 (2016) on the right to inclusive education and targets 4.5 and 4.a of the Sustainable Development Goals, the Committee reiterates its previous recommendations on education (CRPD/C/AUS/CO/1, para. 46) and recommends that the State party:

- (a) Conduct a robust review, in consultation with organizations of persons with disabilities, of the Disability Standards for Education 2005, implement the recommendations arising from that review and develop a national action plan for inclusive education;
- (b) Address the increasing rate of segregation, seclusion and isolation and the lack of age-appropriate settings for students with disabilities at all levels, in particular Aboriginal and Torres Strait Islander students, and redirect adequate resources to a nationwide inclusive education system for all students;
- (c) Expand the collection of data on the number of students with disabilities who do not qualify for an adjustment and who are unable to enrol in local mainstream schools, as well as data on

educational attainment, on completion, suspension and expulsion rates, on the use of restrictive practices and on cases of bullying.

### **Health (art. 25)**

48. The Committee recommends that the State party adhere to article 25 of the Convention in its efforts to achieve targets 3.7 and 3.8 of the Sustainable Development Goals and ensure that:

- (a) All persons with disabilities, in particular persons with disabilities living in remote areas, Aboriginal and Torres Strait Islander persons with disabilities, persons with intellectual or psychosocial disabilities, persons with disabilities living in institutions and women and children with disabilities, have access to information on an equal basis with others and to affordable, accessible, quality and culturally sensitive medical equipment and health services, including sexual, reproductive and mental health services;
- (b) All health-care services are based on a non-discriminatory, human rights model of disability and that any medical treatment is provided with the free and informed consent of the person concerned prior to any medical treatment;
- (c) Health-care practitioners receive training on the human rights model of disability to enhance their capacity to provide accessible, quality health care to persons with disabilities.

### **Work and employment (art. 27)**

50. The Committee recommends that the State party:

- (a) Take measures to reform the Disability Employment Services and develop a national disability employment strategy that incorporates the recommendations from the “Willing to work” inquiry and contains targeted gender-sensitive measures;
- (b) Undertake a comprehensive review of Australian Disability Enterprises to ensure that they adhere to article 27 of the Convention and provide services to enable persons with disabilities to transition from sheltered employment into open, inclusive and accessible employment, ensuring equal remuneration for work of equal value;
- (c) Implement measures to address systemic and structural barriers experienced by persons with disabilities, particularly by women with disabilities, Aboriginal and Torres Strait Islander persons with disabilities, persons with disabilities from culturally and linguistically diverse backgrounds and refugee and asylum-seeking persons with disabilities.

### **Adequate standard of living and social protection (art. 28)**

52. The Committee recommends that the State party:

- (a) Develop a national poverty reduction plan that is inclusive and accessible to all persons with disabilities and prioritize the realization of the right to an adequate standard of living and social protection for Aboriginal and Torres Strait Islander persons with disabilities;

(b) End the eligibility restrictions on the Disability Support Pension, increase the rate of Newstart Allowance unemployment payments and other income support payments to ensure that persons with disabilities have access to an adequate standard of living;

(c) Ensure that persons with disabilities are included as a priority cohort in the implementation of poverty reduction and public housing programmes, including the National Affordable Housing Agreement and the National Partnership Agreement on Homelessness.

#### **Participation in political and public life (art. 29)**

54. The Committee reiterates its previous recommendation on ensuring the right of persons with disabilities to vote in elections on an equal basis with others (CRPD/C/AUS/CO/1, para. 52). It recommends that the State party develop measures, with adequate resources, to ensure the full accessibility of electoral processes and guaranteeing secret voting rights. It also recommends that the State party implement the recommendations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/AUS/CO/8, para. 36) to ensure representation and accelerate the participation of women with disabilities, particularly Aboriginal and Torres Strait Islander women with disabilities, in political and public life at all levels.

#### **Participation in cultural life, recreation, leisure and sport (art. 30)**

56. The Committee recommends that the State party take all appropriate measures to ensure the effective implementation of the Marrakesh Treaty through close consultation with representative organizations of persons with disabilities. It also recommends that the State party increase its efforts to ensure that persons with disabilities, including children with disabilities, enjoy their right to participate in cultural life, recreation, leisure and sport on an equal basis with others.

### **C. Specific obligations (arts. 31–33)**

#### **Statistics and data collection (art. 31)**

58. The Committee recommends that the State party, in conjunction with the Office of the National Data Commissioner, develop a national disability data framework to ensure appropriate, nationally consistent measures for the collection and public reporting of disaggregated data on the full range of obligations contained in the Convention, especially with regard to women, children and Aboriginal and Torres Strait Islander persons with disabilities.

#### **International cooperation (art. 32)**

60. The Committee recommends that the State party:

(a) Adopt measures to ensure the full and effective participation of persons with disabilities, through their representative organizations, in the design, implementation, monitoring and evaluation of programmes and projects developed in the framework of international cooperation efforts, including efforts such as the Development for All 2015–2020 strategy, in line with the Committee's general comment No. 7;

(b) Adopt a development policy in line with the Convention and incorporate the policy's principles and values into all of the State party's development cooperation policies and programmes, ensuring that the policy has measurable and tangible targets and indicators, and ensure that international cooperation efforts reach persons with disabilities both by targeting them and by mainstreaming their concerns;

(c) Mainstream disability rights and requirements in the national implementation of the 2030 Agenda for Sustainable Development and in monitoring progress in implementation.

### **National implementation and monitoring (art. 33)**

62. The Committee reiterates its previous recommendation on national implementation and monitoring (CRPD/C/AUS/CO/1, para. 58) and recommends that the State party:

(a) Ensure that sufficient resources are available for the effective implementation of the National Disability Strategy;

(b) Revise existing laws or enact new laws, including a national comprehensive human rights law, to expand and strengthen the scope and power of the Australian Human Rights Commission to perform the task of independently monitoring the implementation of the Convention, in line with article 33 (2) of the Convention and the Committee's general comment No. 7;

(c) Establish a formal monitoring mechanism under the National Disability Strategy that includes the Office of Disability Strategy, as recommended by the Senate Standing Committee on Community Affairs in 2017, ensuring effective coordination between the federal and state levels;

(d) Establish a formal mechanism and ensure sustainable and adequate funding for the meaningful engagement of persons with disabilities and their representative organizations in the implementation and monitoring of the Convention.

## **IV. Follow-up**

### **Dissemination of information**

63. The Committee emphasizes the importance of all the recommendations contained in the present concluding observations. With regard to urgent measures that must be taken, the Committee would like to draw the State party's attention to the recommendations contained in paragraph 6 (b), on reviewing and withdrawing the interpretative declarations on articles 12, 17 and 18 of the Convention, and paragraph 28, on liberty and security of the person.

64. The Committee requests the State party to implement the recommendations contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and parliament, officials in relevant ministries, the judiciary and members of relevant professional groups, such as education, medical and legal professionals, as well as to local authorities, the private sector and the media, using modern social communication strategies.

65. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

66. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, and to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

#### **Next periodic report**

67. The Committee requests the State party to submit its combined fourth and fifth periodic reports by 17 August 2026 and to include in them information on the implementation of the recommendations made in the present concluding observations. The Committee also requests the State party to submit the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report of a State party. The replies of a State party to such a list of issues constitute its report.

# Appendix B – ACCAN recommendations

People with Disability Australia has endorsed the Australian Communications Consumer Action Network submission on the National Disability Strategy Position Paper on the future National Disability Strategy, and its specific recommendations:

**Recommendation 1:** Through setting clear actions and performance indicators, the new Strategy must prioritise the affordability and availability of accessible digital communications technologies for people with disability in Australia. This must include an affordable broadband concession to support access to a home internet service through the National Broadband Network.

**Recommendation 2:** The Broadcasting Services Act must be updated to require fully accessible information in emergency and disaster situations, including mandatory requirements for Auslan-English interpreting, open captioning, the verbalisation of on-screen content, and the need for these accessibility features to follow videos onto different platforms.

**Recommendation 3:** Federal, state, territory and local governments must commit to procuring and using digital communications technologies that meet the requirements of AS EN 301 549 'Accessibility requirements suitable for public procurement of ICT products and services'. This commitment must include the development and implementation of a whole of government procurement policy for accessible ICT.

**Recommendation 4:** The National Disability Insurance Agency (NDIA) must amend its policies and procedures to ensure funding is provided for 'mainstream' digital communications technologies and IoT devices where these are the most appropriate technologies to meet the NDIS participant's needs.

**Recommendation 5:** All National Relay Service (NRS) call options, including the Video Relay Service, must be made available 24/7 on every day of the year. Research must also be undertaken to explore options to expand existing NRS offerings to include tailored call options for people who require a direct line call option, people with intellectual disability and people who are Deafblind, to ensure all people with disability have equal access to telecommunications services.

**Recommendation 6:** All people with disability, including NRS users, must be ensured equal access to the emergency call service through the establishment of next generation Triple Zero services.

**Recommendation 7:** All government websites must comply with WCAG 2.1 and successor standards, and people with disability must consistently be involved in the design, development, implementation and maintenance of this online content.

**Recommendation 8:** The federal government must assess industry compliance with WCAG 2.1 and appropriately incentivise the non-government sector to improve compliance with this important standard.



**Recommendation 9:** As proposed by the AHRC, 'Standards Australia should develop an Australian Standard or Technical Specification that covers the provision of accessible information, instructional and training materials to accompany consumer goods, in consultation with people with disability and other interested parties'.

**Recommendation 10:** The Broadcasting Services Act must be amended to mandate accessibility improvements for broadcast and catchup television. This must include 24/7 captioning on all channels, including multi-channels; the introduction of permanent audio description on the ABC, SBS, and channels 7, 9 and 10; and the introduction of Auslan-English interpreting requirements for standard programming.

**Recommendation 11:** The Broadcasting Services Act must be amended to mandate that accessibility features must follow video content across all forms of video distribution in Australia, similar to the requirement of the 21<sup>st</sup> Century Communications and Video Accessibility Act in the United States.

**Recommendation 12:** The Ideal Accessible Communications Roadmap must be fully incorporated into the new Strategy to ensure the accessibility of information and communications technologies and services is a priority for the next 10 years.

**Recommendation 13:** Accessible information and communications must be a key priority for the new Strategy, with a particular focus on inclusive and reliable emergency communications, services and responses.

**Recommendation 14:** The new Strategy must continue to be underpinned by the CRPD and must focus on upholding the human rights of all people with disability in Australia. Furthermore, digital communications technologies and services must be recognised in the Strategy as an enabler of human rights.

**Recommendation 15:** The new Strategy must highlight the interconnections between different outcome areas, and the complementary and cross-outcome activities that will be required to improve accessibility for people with disability in Australia.

**Recommendation 16:** All levels of government must be able to clearly identify how the Strategy has influenced the development of any disability-specific or mainstream policies, programs and services relating.

**Recommendation 17:** Article 9 of the CRPD must be included as a separate guiding principle to embed a broad and inclusive understanding of accessibility into the new Strategy.

**Recommendation 18:** The Strategy must be updated to reflect different types of design: universal design, inclusive design, human rights by design – to ensure that the terminology used in this document appropriately reflects the expectations of community, the non-government sector and governments.

**Recommendation 19:** All levels of government must ensure all legislation and policies are inclusive of people with disability, and must model good practice inclusivity to the non-government and private sectors.

**Recommendation 20:** An independent committee must be established with the main function of examining federal, state and territory legislation and policies from a disability inclusion lens. This independent committee would also have oversight of the implementation of the Strategy.

**Recommendation 21:** The federal government must provide leadership and guidance to ensure the Strategy is fully intersectional and embedded at every level of government. This must involve employing people with disability to drive the Strategy and liaise with state and territory governments in their implementation of the Strategy.

**Recommendation 22:** The Strategy must acknowledge and include the expertise of DPOs and DROs and ensure these organisations continue to be funded.

**Recommendation 23:** All governments must embed inclusion into the standard terms and conditions of every government contract. These contracts must outline mandatory accessibility standards that the funding recipient must meet, a requirement to undertake consultation and/or user testing of digital and non-digital resources with people with disability, and a requirement to report on inclusion activities undertaken while receiving government funding.

**Recommendation 24:** As proposed by the AHRC, ‘the Attorney-General of Australia should develop a Digital Communication Technology Standard under section 31 of the Disability Discrimination Act 1992 (Cth). In developing this new Standard, the Attorney-General should consult widely, especially with people with disability and the technology sector. The proposed Standard should apply to the provision of publicly available goods, services and facilities that are primarily used for communication, including those that employ Digital Technologies such as information communication technology, virtual reality and augmented reality’.

**Recommendation 25:** Reforms to the Disability Discrimination Act (DDA) must assign greater powers to the AHRC to perform compliance monitoring and investigations into cases of systemic discrimination against people with disability.

**Recommendation 26:** The Strategy must include funding and support for small businesses to make accessibility upgrades required to ensure they can provide goods and services to people with disability on an equal basis with all others.

**Recommendation 27:** Annual reports on the progress of the Strategy must be delivered to parliament by the Prime Minister at the federal level, and by the Premier or Chief Minister at the state and territory level.

**Recommendation 28:** The independent committee with oversight of the Strategy’s implementation (mentioned in recommendation 20) must have the remit to request additional information from stakeholders on progress towards outcomes and performance indicators.

**Recommendation 29:** The Strategy must report against measures relating to the accessibility and use of digital communications technologies (including internet and phone services) and the use of accessibility features on audio-visual content.

**Recommendation 30:** One of the first Targeted Action Plans must relate to the enabling role of digital communications technologies and should include the actions listed in appendix 2 to this submission.



**Recommendation 31:** People with disability, DPOs, DROs and advocacy organisations must be meaningfully involved in the design, development, implementation and monitoring of legislation, policies, projects, programs and services relating to people with disability in Australia.

**Recommendation 32:** Terms relating to engagement must be clearly defined in the Strategy so that all stakeholders have shared expectations of what 'engagement' or 'consultation' will entail.



# Appendix C – ATFA alliance recommendations

People with Disability Australia has endorsed the Assistive Technology for All alliance's submission on the National Disability Strategy Position Paper on the future National Disability Strategy, and its specific recommendations:

**Recommendation 1:** The new *National Disability Strategy* must urgently address the system of age discrimination that exists for older people with disability to ensure their rights are equitably protected, promoted and upheld.

**Recommendation 2:** The outcome area of personal support must be given higher priority in the new *National Disability Strategy*. This is in recognition of the fact that personal supports such as assistive technology facilitate autonomy, safety and independence. They are key enablers for inclusion and participation which help to deliver successful outcomes under each of the remaining priority areas that have been proposed for the new strategy.

**Recommendation 3:** The Australian, State and Territory Governments must urgently develop and implement a new National Disability Agreement to clearly outline who will be responsible for funding assistive technology (including home modifications) for:

- People with disability who are over the age of 65 who do not meet the age eligibility requirements for the NDIS
- People with disability who are under the age of 65 who do not meet the eligibility requirements for the NDIS.

**Recommendation 4:** The new *National Disability Strategy* must consider funding arrangements and responsibilities associated with each individual component of the assistive technology journey, including:

- Skilled assessment and referral
- Equipment trials and demonstrations
- Equipment customisation
- Purchase/installation of customised aids, equipment and home modifications
- Specialised training
- Equipment maintenance and repairs.

**Recommendation 5:** The new *National Disability Strategy* must establish a framework to drive nationally consistent outcomes across service systems to ensure all people with disability have equitable access to the assistive technology they need.



**Recommendation 6:** The new *National Disability Strategy* must include a funded action plan to provide urgent and equitable access to assistive technology for people with disability who are excluded from the NDIS.

**Recommendation 7:** The new *National Disability Strategy* must prioritise the establishment of a funded National Assistive Technology Program to streamline access and provide equitable support to people with disability who are excluded from the NDIS. This program should:

- Harmonise existing state-based assistive technology programs and those operated by not-for-profit organisations. This would streamline access and drive nationally consistent outcomes for consumers while reducing administrative burden on governments
- Be aligned with the NDIS Assistive Technology Strategy to address the inequity between the support that is provided under the NDIS and other service systems
- Be driven by key performance indicators relating to the timely provision of equipment, in line with the aspirations of the NDIS Participant Service Guarantee.



**PEOPLE WITH DISABILITY**  
**AUSTRALIA**

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our own**