

# **Disability Inclusion Bill Feedback**

## **Disability Rights Advocacy Service Inc**

30 June 2017

Disability Rights Advocacy Service Inc ('ORAS') is a non-government disability advocacy agency funded by the Australian Government Department of Social Services to provide advocacy to people with disability and their carers.

We take this opportunity to provide a submission regarding the South Australian Government's draft Disability Inclusion Bill 2017 ('the draft bill').<sup>1</sup> We understand the draft bill intends to supersede the intended repeal of the Disability Services Act (SA) 1993.

ORAS supports the draft bill in principle and looks forward to the South Australian Parliament progressing this legislative initiative.

We note the inclusion of provisions at Part 7 regarding the Community Visitor Scheme and the intention to migrate these particular functions and powers currently provided by Disability Services (Community Visitor Scheme) Regulations 2013 deriving from the Disability Services Act (SA) 1993, to the draft bill and ultimately a new legislative scheme altogether.

ORAS supports the intended migration of the Community Visitor Scheme's constitution, functions and powers to a new legislative scheme. We note that there appears to be no intention to disturb the Community Visitor Scheme's separate arrangements which currently exist by way of the Mental Health Act 2009.

Thank you for the opportunity to provide a submission on this important legislative initiative.

# City of Adelaide

29 June 2017

## Introduction

City of Adelaide (Council) supports the intent of this legislation to advance access and inclusion for people with disability in South Australia. It is noted that the Bill is intended primarily to ensure a smooth transition to the National Disability Insurance Scheme. The direction of the proposed legislation is consistent with our vision of a Capital City which is liveable, diverse and welcoming to all, and Council's established commitment to increasing access and inclusion in the City. Council renewed this commitment when it endorsed its Access and Inclusion Strategy in 2012, and established its Access and Inclusion Advisory Panel in 2013.

Council supports a number of aspects of the Bill including:

- the objects and principles
- the use of the social definition of disability
- commitment to consult with people with disability
- acknowledgement of the diversity of people with disability
- recognition of multiple disadvantages experienced by Aboriginal and Torres Strait Islander people with disability, women and girls with disability, people with disability from culturally and linguistically diverse communities, and
- recognition of the rights of children and the importance of families and carers
- provision for Community Visitor Scheme and screening to continue.

The following submission calls upon State Government to consider aspects of the Bill which could be improved to facilitate enhanced outcomes for people with disability.

## State Disability Inclusion Plan

Section 13{3}{b}

The draft Bill says that the State Disability Inclusion Plan "must provide for collaboration and coordination among State authorities and other entities in relating to the provision of supports and services to people with disability; "

Council recommends that the language in this section be reviewed. The term 'supports and services to people with disability' could be interpreted to mean "specialist disability" services and supports. This interpretation risks missing the point of the proposed State Disability Inclusion Plan.

It is important to clarify and broaden this language to ensure that collaboration and coordination between State authorities is not limited to the 'provision of supports and services to people with disability', but also extends to other initiatives which facilitate inclusion. Some examples include Universal Design in the built environment, integration of transport planning (as described in the draft Whole of Journey Guide), community education which aims to reduce stigma and so on. These types of initiatives are not 'supports and services to people with disability' per se, but are targeted at changing those aspects of the social and physical environment which present barriers to inclusion and create disability for people with impairment.

Where there is a lack of collaboration and coordination between State authorities this can lead to isolated islands of accessibility, within a wider context which has many barriers to access and inclusion for people with disability.

## **Disability Access and Inclusion Plans**

### Section 16(3)(d)

Disability Access and Inclusion Plans (DAIPs) by State authorities (including local Councils) must include strategies to support people with disability in the following areas:

- I. access to built environs, events and facilities; and
- II. access to information and communications; and
- III. addressing the specific needs of people with disability; and
- IV. employment; and
- V. must contain such other provisions as may be required by the guidelines published under section 12(1)(a) or the regulations.

Council supports the requirement for Local Governments to prepare Disability Access and Inclusion Plans, and the option of preparing them for an area covering more than one Council.

When the Regulations are drafted, Local Government should also be required to address how its programs, services, consultation practices and customer service feedback processes will be inclusive of people with disability, in addition to the areas listed under Section 16(3)(d) in the Bill.

There may be merit in linking the areas to be covered in the DAIPs to the 6 policy areas in the *National Disability Strategy 2010-2020* for consistency and because these have been subject to consultation and agreement between stakeholders.

A critical issue with regard to making DAIPs meaningful will be the assistance and guidance that will be available to Councils for the development and implementation of the Plans. This is likely to be especially important for regional and remote Councils and those smaller Councils with fewer specialists within their staff. It is noted that section 12(1)(a) provides for the development of a guideline document, but unless this is supported with resources to assist with capacity development within Local Government around planning and implementation of a DAIP, there is a risk this could result in a tokenistic or 'tick a box' response.

The education and training of Council staff in disability awareness and universal design principles will be essential to facilitating inclusion outcomes for people with disability. At the moment there are only a small number of Councils who have specialist positions which include facilitating access and inclusion for people with disability. It is likely that the development and implementation of DAIPs will be done by a broad range of Local Government staff who do not already have a background or training in access and inclusion.

Council recommends that the LGA be resourced to assist Councils to meet the requirement to develop DAIPs in a meaningful way, and which will lead to real access and inclusion outcomes. As a minimum this support should be provided to smaller, rural and regional Councils. The LGA could also be resourced to facilitate the provision of quality education and training for Council staff with regard to relevant topics such as disability awareness and universal design principles.

## **Accountability for resourcing and performance of Disability Access and Inclusion Plans**

### Section 17(1-4)

It is recognised that State authorities (including Local Government) will need to report annually on the implementation of their Disability Access and Inclusion Plans. In the case of Local Government, however, the Annual report to Parliament should be supplemented with requirement for a Council to publish its Annual Report on its website and in a Council Agenda, to increase the visibility to local community stakeholders of the progress made on the Plan.

Likewise, State authorities should be accountable for the level of resourcing and commitment they make to progressing the implementation of Plans, especially where cooperation and coordination with other State authorities is required. There may be a range of ways to strengthen accountability such as incorporating indicators into KPIs for CE and relevant senior positions in State authorities, and there may be additional mechanisms that could be explored.

For Local Government, collecting evidence of the impact and outcomes resulting from DAIPs may be challenging. It would be useful to have guidance around performance measures and assistance with data collection and monitoring from the State. Recent work by SA Health towards a Public Health Evaluation Framework could be of value to monitoring performance of DAIPs.

## **Consultation with people with disability**

### Sections 13(4)(a) & 16(4)(b)

Council supports the provision for consultation in the development of the State Disability and Inclusion Plan, and the Disability Access and Inclusion Plans. However, it is important to recognise that meaningful participation will be difficult for many people with disability. The capacity of many people with disability to participate in consultations and to develop their leadership has been restricted by historic practices of marginalisation and a lack of personal and community support.

Building the capacity of people with disability to participate powerfully in access and inclusion planning and monitoring is very important. This may require commitment to resourcing community based organisations and peak bodies to offer support or education to individuals who wish to participate. Without this funding, consultations could be tokenistic and limited.

City of Adelaide recommends that this Bill provides for a leadership program that is funded to build the capacity of people with disability, in recognition of the past marginalisation of this population and the lack of opportunity to develop knowledge and skills which contribute to effective consultation about DAIP development, implementation and monitoring.

It is also worth noting that when State authorities seek advice from people with disabilities, they need to consider how representative that advice is with regard to any specific needs of people with disability. For example, in the area of vision impairments there can be a very wide range of experience from low vision to total blindness. Therefore proposed access solutions need to consider a vision enhancement solution at the same time as a vision substitution solution. Advice from one person's experience may not fully address the wide range of experience, and thus best practice approaches and advice from peak bodies should be considered.

### **Advisory Council**

The draft Disability Inclusion Bill does not currently incorporate a statutory, ongoing Advisory Council constituted of people with lived experience of disability and caring for people with disability. Other Australian jurisdictions do feature this in their legislation and City of Adelaide strongly recommends that this is included in the Disability Inclusion Bill.

This Advisory Council should not be the sole mechanism for consultation with people with disability, but it can supplement the broader community engagement activities of various State authorities, by providing insights and input around key priority areas or areas of complexity. This Advisory Council would also contribute to ensuring that there is direct scrutiny of the outcomes of the Disability Inclusion Act, and the progress of the Plans it requires, by the people this is intended to benefit, as well as the Parliament of SA.

A further benefit of the recommended Advisory Council is that it would promote leadership development for people with disability, which is promoted within the National Disability Strategy.

The City of Adelaide established an Access and Inclusion Advisory Panel (the Panel) in 2013. Panel membership includes individuals with lived experience of disability, peak bodies and key stakeholders. The AIAP has had numerous benefits including:

- high quality and sustained input to specific Council initiatives including public realm infrastructure design, accessible communication initiatives, facility modifications to increase accessibility
- a forum for discussion and ad hoc advice around relevant topics and projects
- building of capacity within Council staff around access and inclusion and universal design
- accountability and review of the performance of Council's infrastructure and facility improvement projects
- information sharing
- skills development for Panel members
- formal recognition of the importance of access and inclusion in the Capital City
- mechanism for ensuring the voice of people with disability is heard within Council processes

The advice that this Panel provides is qualitatively different to the input that is received via Council's community engagement processes. Over time the Panel's understanding of Council business and capacity to deliver relevant and high quality advice has developed. The sustained engagement with the Panel has delivered excellent outcomes for Council.

The City of Adelaide has had a very positive experience with the Access and Inclusion Advisory Panel, and recommends that State government include a statutory Advisory Council that performs a similar function at a State level, with clear communication, reporting and accountability structures.

## **City of Salisbury**

28 June 2017

The current SA Disability Services Act 1993 is not up to date as it doesn't reflect The Council of Australian Government's National Disability Strategy 2010 – 2020 the obligations of all Governments since Australia ratified the United Nations Convention on the Rights of Persons with Disabilities in July 2008.

### **Introduction**

This submission acknowledges a number of positive elements in the Bill and makes three recommendations to strengthen it. But more than legislation is required for disability access and inclusion reform. The effectiveness of the Bill depends on SA Government resourcing of its implementation It is vital to understand that:

- the National Disability Insurance Scheme (NDIS) grants for “Information, Linkages & Capacity Building” specifically exclude funding of mainstream reform of inclusion and access
- the COAG National Disability Strategy has no funding associated with it
- without resourcing to facilitate the proposed Disability Inclusion Act 2017 its impact will be restricted to:
  - an extra compliance burden for Local Government
  - minimal access and inclusion reform.

### **Positive elements in the Bill**

The Bill has some excellent elements especially:

- Commitment to consult with people with disability
- Acknowledgement of the diversity of people with disability: the recognition of
  - multiple disadvantage experienced by
  - women and girls with disability
  - Aboriginal and Torres Strait Islander people with disability
  - people with disability from culturally and linguistically diverse
  - communities.

The Bill also highlights the;



- rights of children
- importance of families and carers.

### **Key concerns about the Proposed Bill**

The Bill only proposes access and inclusion compliance for Local Government and could be strengthened by:

- strategies to support people with disability to have an effective voice in access and inclusion reform
- a method for supporting local government access and inclusion plan development, implementation, review and evaluation which is not included in the Bill other than references to some assistance for initial plan development and the availability of the access and inclusion planning template.
- A program to allow for accelerated disability access and inclusion plan implementation through collaboration between the State Government and the Local Government sector: A collaborative and strategic program is the only way that Disability Access and Inclusion Plans will be more than minimalist and integrated into Local Government planning and reporting systems.

### **Consultation Timeline**

The tight consultation timelines have made it difficult for Local Government to respond to the proposed Bill and it has made it impossible to engage with citizens with disability in depth regarding the Bill.

For the City of Salisbury there has been no time to consult with the Disability Access and Inclusion Network on this proposed Bill. Yet this Network is pivotal to Council's disability access and inclusion planning.

This reflects a lack of deep commitment within the proposed Bill to the strengthening of the voice of people with disability.

### **Recommendation 1**

Inclusion of a joint Local – State Government program in the Bill for enhanced Local government Disability Access and Inclusion Plans.

The Bill should include a program for accelerated Disability Access & Inclusion Plan (DAIP) development and implementation by Councils willing to agree to negotiated processes, outcomes evaluation and timelines for more comprehensive and quicker DAIP development and implementation than will occur without such a strategy.

## **Rationale**

The SA Government will contribute \$723million annually to fund its 50% share of the

State's part of the National Disability Insurance Scheme from 2018/19. The SA Government thus has a large stake in NDIS sustainability. This sustainability depends in large part on the longer term savings arising from increased community inclusion of NDIS participants.

Yet there is no funding through:

- COAG's National Disability Strategy 2010 – 2020 for mainstream inclusion and access reform; or
- the NDIS grants for "Information, Linkages & Capacity Building" which specifically exclude funding the mainstream to do its job of providing universal access and inclusion.

Without SA Government funding in the past 25 years:

- only about 15 of 68 SA Councils have current access and inclusion plans registered under the C'wth Disability Discrimination Act 1992 (DDA) with the Australian Human Rights Commission (although there are an unknown number of SA Councils with plans not registered under the DDA)
- only 4 Councils have positions with significant responsibility for access and inclusion.

The current Bill's lack of a collaborative and strategic program between State and Local Government will continue under-achievement in access and inclusion reforms which will focus on compliance not best practice.

## **Recommendation 2**

Capacity building for people with disability to engage powerfully in access and inclusion consultations, planning, monitoring and review The Bill could be strengthened by recognition of the importance of building the capacity of people

with disability to participate powerfully in access and inclusion consultations, planning and monitoring rather than in a tokenistic way. The capacity of many people with disability to participate in consultations and to develop their leadership has been restricted by marginalisation and lack of personal and community support.

This Bill is an opportunity for the SA Government to show leadership by developing the capacity of representative organisations and individual leaders, as a fundamental building block for future improvement of the legislation as well as access and inclusion planning.

### **Recommendation 3**

A statutory voice for citizens with disability.

The lack of a statutory voice for people with disability and their supporters is a key difference to the Victorian Disability Act 2006 and the NSW Disability Inclusion Act 2014, The Bill should provide for a Disability Advisory Council by including a new Part along the lines of the NSW Disability Inclusion Act 2014 Part 3 – the NSW Act provides for a Disability Advisory Council to the Government and outlines roles, resourcing and breadth of membership.

The SA Bill's provisions should also include a role for the Advisory Council to offer support to local communities as they are consulted about access and inclusion plans by Local Government.

If the intention is to create an advisory body along the lines of either the NSW or Victorian Disability Advisory Council by regulation, more information is needed about such a body's role, membership and resourcing as well as the justification for relying on regulation rather than establishing a statutory body.

### **Conclusion**

This Bill shifts the SA Government's view of people with disability from being service recipients to being diverse citizens with the right to participate in society. The Bill is also an opportunity to take this stage further by promoting people with disability as leaders in the reform of mainstream society.

But as currently drafted, the lack of strategic programs will lead to a minimal improvement in access and inclusion, especially in Local Government. Access and inclusion plans will be driven by compliance with no marked growth in the capacity of people with disability to engage powerfully in State and Local

Government consultations, implementation and monitoring and the review of these plans.

## Department for Child Protection

30 June 2017

The Department for Child Protection (DCP) notes some provisions in the draft Disability Inclusion Bill mirror the draft Children and Young People (Safety) Bill 2017, such as reference to state authorities (which can be extended or narrowed by regulation). A level of consistency of interpretation of these terms across the legislation will be important.

DCP requests to be consulted when the regulations of the Disability Inclusion Bill are drafted to:

- ensure the regulations do not place an additional screening burden on people working with children with disabilities
- consider what child protection information should be prescribed that may or must, or must not, be assessed in the course of a working with people with disability check, and
- consider confidentiality of information and record keeping.

## **Mr Ron Lochert BE MIE CPeng NER (Engineer)**

30 June 2017

I have a concern that the clauses in the bill making special reference to women and Aboriginal people may have the unintentional effect of discriminating against others. That is clearly not the intent of the authors but by emphasising these areas in the proposed act it may focus attention to those areas and when compromises due to some constraints are needed other sectors will miss out. The preceding clauses are all including so such information is probably better included in advisory information about the act rather than part of the act itself.

## **Dr David Squirrell (Retired Medical Consultant)**

13 June 2017

I have just attempted to read the document on my adaptive technology

My initial comments are

- The language used is understandably legal but that also constituted an issue for those that have comprehension, vision, etc issues to gain a grasp of the document who may wish to give feedback
- I did not find it clear as to
  - If there is a potential complaint then is there to be an ombudsman or must all complaints be in writing & lodged with the EOC
  - Will there be KPI & is so how will they be defined for investigation, communications & potential resolution as the current process via EOC can be lengthy
  - Councils are to develop their ASI plans – when we have 20 odd councils why do we need 20 odd different plans. It has been my experience that several councils have adapted a cut & paste formulation & have lacked discussions with key Peak Bodies. Service providers are insufficient to communicate with.
  - Will all councils & government & statutory authorities also lodge their ASI on the central government web site. I believe currently councils are supposed to lodge them with the HREOC but their web site is far from user friendly in locating the past plans.
  - Will there be methods of viewing the web based plans in a person's preferred format or have the ability to have the site read the document or for those that need Auslan.

Thank you

David

## Julia Farr Youth

Julia Farr Youth has considered the draft Disability Inclusion Bill 2017. We attended a community meeting yesterday so thanks for the opportunity to meet with you. We raised a few points on behalf of Julia Farr Youth that we would like to reiterate here.

The bill has some positive elements including:

- It is rights-based and informed by the social model of disability (specific mention of UN Convention on the Rights of Persons with Disabilities)
- Focus on State Disability Inclusion Plan and DAIPs
- Recognition of the additional considerations for specific groups:
  - women living with disability
  - children living with disability
  - Aboriginal and Torres Strait Islander people living with disability
  - people living with disability from culturally and linguistically diverse backgrounds

We also wish to express the following views/suggestions in the hopes that they will inform the final version:

- There is mention of “improved access to services”, however we wonder whether there should be explicit mention of access to healthcare services in recognition of the significant barriers people living with disability face to access basic healthcare services.
- Regarding 9(1): we are not sure that the wording “acknowledged and respected” communicates that these rights must be upheld and empowered by all.
- Regarding 9(3)(b): we suggest to consider using the terminology ‘child-inclusive’ or ‘child-centred’ as this covers not only the “best interests of the child” but also more comprehensively the child’s needs and wants, safety, and wellbeing.
- Regarding 9(3)(d): this is an important point however we suggest this could be reframed and strengthened e.g., “The views of children will be listened to and they will be provided with appropriate opportunities to participate in decisions that affect them”.



- It may also be worthwhile to add an additional point e.g., “The developmental needs of children will be taken into account including recognition of critical periods in childhood and adolescence.” In other parts of the bill where ‘maturity’ or ‘age’ is referred to, we recommend you replace this language with ‘grow and develop’ or ‘developmentally appropriate’.
- The bill needs to better communicate its aim of improved access and inclusion of all services and supports (mainstream included) for people living with disability. The impression we get from reading the bill in its current form is that it is referring to disability-specific services.

Julia Farr Youth welcomes further opportunities to meet with you and have their say on issues that affect young people living with disability.

## **Light Regional Council**

30 June 2017

Thank you for providing Council with the opportunity to review and provide comments on the recently released Draft Disability Inclusion Bill 2017 (the 'Bill').

Council officers have reviewed the Bill and corresponding fact sheets and support the intent of enabling people with a disability to fully participate in their community.

As the time available to provide comments has unfortunately been limited, this response is provided as staff comments on the proposed legislation.

It is noted that the Disability Services Act 1993 is no longer required with the impending cessation of direct State Government funding for disability services and replacement with the introduction of the Federally-funded National Disability Insurance Scheme. This provides a trigger for updated legislation to ensure that South Australians with a disability can actively participate in their communities through improved access and inclusion to services, programs, events, and activities.

In this context, Council Officers wish to offer the following observations for the further consideration of the Disability Policy Unit (DPU), namely:

### **1. Part 1 – Section 3 – Interpretation**

Council officers note that a 'local council' is included as a defined 'State Authority'. This is generally inconsistent with other legislation where a council is distinguished from a state agency/ authority. The nearest comparable example may be the South Australian Public Health Act 2011 in which a council is listed as a 'public authority' together with other state branches. It is recommended that this approach be carried over for consistency.

### **2. Sections 16 & 17 of the Bill –**

Section 16 (s16) of the Bill stipulates that each State Authority is required to have a 'Disability and Access Inclusion Plan' (DAIP) and s17 provides that council must report on its operation to the Chief Executive.

S52(1) of the South Australian Public Health Act 2011 provides that Council must prepare a report for the Chief Public Health Officer that contains a

comprehensive assessment of the extent to which it has succeeded in implementing its regional public health plan every 2 years.

For smaller regional Councils that are less well-resourced, annual reporting on the Bill would be a time-consuming task that would divert resources from the actual implementation of the DAIP.

For consistency with the Public Health Act reporting requirements, it is respectfully requested that the reporting requirements for the Bill be adjusted to enable reporting on the operation of the DAIP to be undertaken on a biennial basis at a minimum.

### **3. DAIPs to align with the six outcome areas of the National Disability Strategy**

Light Regional Council, in collaboration with The Barossa Council, Town of Gawler, and Adelaide Plains Council, has advanced work to prepare an Regional DAIP (R-DAIP) in response to one of the priority actions identified in the Barossa, Light and Lower Northern Region Public Health and Wellbeing Plan. The second draft of the R-DAIP has been recently received from the consultant with minor adjustments to be made in order to finalise the document and seek endorsement by Council.

This document has not been prepared to align with the six (6) National Disability Strategy (NDS) policy areas as featured in the proposed Bill. On this basis some direction is requested for the current project to ensure that it is not completed in a way that does not align to the new directions now proposed.

It is noted, for instance, that with the requirement to align with the State DAIP, a significant restructure of the 'actions' section of the draft R-DAIP is now required to align with the six (6) policy areas of the NDS.

Further, while several policy areas are strongly represented within the core business activities of Councils, some policy areas are only marginally represented within Council business activities, for example economic security, and learning and skills. At best Council may only be able to act in an advocacy role in conjunction with other State Authorities and/or disability service providers.

Thank you for your consideration of the above matters and I note Council officers look forward to receiving future communications at the end of the engagement process outlining how this feedback has been used.

# **Centre for Cultural Diversity in Disability**

30 June 2017

## **Introduction**

The Centre for Diversity in Disability welcomes the opportunity to provide input to the draft Disability Inclusion Bill 2017. The Centre for Diversity in Disability was recently established by Multicultural Aged Care (MAC) Inc.

Over the years, MAC has developed and established long term and trust based relationships with CALD communities. Through the Partners in Culturally Appropriate Care (PICAC) Alliance, MAC has shown leadership in supporting innovation and best practice in the involvement of culturally and linguistically diverse (CALD) communities and service providers in the development of culturally sensitive and appropriate aged care at both state and national level.

The aim of the Centre for Diversity in Disability is to highlight the impact of language, culture and the migration experience on the needs of people with disabilities from CALD backgrounds. This knowledge is critical for generalist and community agencies to assist in the provision of effective, inclusive and responsive services and care.

The Centre will offer people with disabilities from CALD backgrounds: networking opportunities, consultation, data collection and information exchange; training development and delivery; theory-into-practice programs and services; and a Library with an extensive CALD- specific collection of resources which is available to the public.

For more information about this submission and the Centre for Diversity in Disability contact Maria Eliadis, interim Chairperson at [cdd@mac.org.au](mailto:cdd@mac.org.au) or on 0433 338 960.

## **General comments**

We want to express our support for the drafting of the new Disability Inclusion Bill 2017 and acknowledge that it embraces the ARTICLES of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and is underpinned by the principles and practices of the NDIS and the National Disability Strategy.

In reviewing the draft Bill we have focused on providing targeted feedback as it relates to people with disabilities from CALD backgrounds and about culture

and diversity as a potential barrier to the full participation of people with disabilities from CALD backgrounds as equal members of the community.

## **Specific Feedback**

### **Part 1 - The Definition (lines 12-15)**

1. We would like to highlight that in the UNCRPD Preamble, point (e) makes a clear and strong distinction between disability and impairment. It states that people with impairments are disabled as a result of 'attitudinal and environmental barriers'. This point highlights how societal attitudes and prejudices can unwittingly impact decisions about how service supports and interventions are designed. This applies particularly to mainstream services that may not have previously needed to consider issues of inclusion when working with people with disabilities. The distinction between disability and impairment is critical for people with disabilities from CALD backgrounds generally and especially for those who have recently settled in Australia for whom '...attitudinal and environmental barriers...' are more complex and often amplified.

RECOMMENDATION: While the definition in the Disability Inclusion Bill is drawn from the UNCRPD we recommend that the intention of Preamble point (e), of disability as a social construct, could be made clearer and reflected in principles, plans and provisions/safeguards.

2. Article 8 – raising awareness specifically points to several measures to actively address 'attitudinal barriers'. The very last one point (d) recommends 'Promoting awareness - training programmes regarding persons with disabilities and the rights of persons with disabilities'.

Input into the SA Gov Disability Inclusion Act

RECOMMENDATION: We strongly recommend that one of the measures be mandatory standards for education, training and continuing professional development programs that combat stereo-types, prejudices and 'disabling' practices. We also strongly recommend that these standards include understanding and responding to complexities of diversity, culture and language.

## **Part 2 - The Objects and Principles**

3. We support the objects and principles and acknowledge the specific points relating to people with disabilities and diversity (specifically points 1(g), 1(h) and all of point 5).

RECOMMENDATION: Ensure that the Bill is reviewed with a diversity 'lens' to ensure measures enabling effective responses to diversity are embedded and protected.

## **Parts 4 and 5 – State Disability Inclusion Plan and Disability access and inclusion plans**

4. While we generally support the points in the Bill under Parts 4 & 5 we would like to raise a question about their scope and reach. The UNCRPD states its purpose as '...to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity' (P4). To this end we seek some clarification of how the Bill will impact across the broader community.

RECOMMENDATION: We recommend that for the UNCRPD purpose to be fully realised, the Bill should extend its focus beyond 'State authorities' to also cover broader mainstream community services, private providers and the business sector.

## **Parts 6 & 7 – Screening of persons working with PWD and Community Visitors Scheme**

5. Oversight of these areas is covered very well so we would just like to highlight the importance of being explicit about the capacity and competence levels required for working in disability.

RECOMMENDATION: We recommend that the Bill be more explicit about mandatory standards and support specialised education, training and professional development in areas such as cultural awareness and practice audits, CQ or cultural intelligence competence together with raising awareness of 'ableist' attitudes and prejudices inhibiting the development of culturally appropriate and inclusive approaches and practices.

## **Multiple Sclerosis Society of SA & NT**

Multiple Sclerosis Society of SA & NT is a not-for-profit organization minimising the impact of multiple sclerosis on individuals, their families, carers and the community, whilst supporting research into improved treatments and ultimately finding a cure.

The Board of Directors and the CEO of the Society are glad to provide the following feedback on the Disability and Inclusion Bill 2017.

### **Our Submission**

- We commend the State Government for its leadership in preparing legislation that more accurately reflects the changes in the disability space as led by the introduction of the NDIS;
- We also support the creation of legislation that formally recognises the value that the inclusion of people with disabilities can offers economy and community;
- We also support the provisions that mandate the preparation of Disability Access and Inclusion Plans (DAIPs) by Local Government, creating opportunities and access options, not only in the metropolitan areas but also in the regional areas;
- In this regard, involving Local Government, both as infrastructure providers and as significant employers, provides opportunities for access, inclusion, and more importantly employment, to people living with disabilities across the whole of the State of South Australia.;
- The provision of accessible infrastructure often means the difference between being able to access local facilities, both recreational and commercial or not. It is critical that Local Government continue its good work in ensuring the provision of ramps, pedestrian refuges, access to recreational and community facilities (including consideration of accessible surfaces) to enable people with disabilities to move around their community independently;
- We commend the inclusion of “employment” in the scope of the DAIPs
- Securing sustainable employment is a key outcome to participation in the economy and community, providing access to the opportunity to earn a reasonable income. It underpins a sense of involvement, independence, contribution and well being;

- Understanding the value of a diverse workforce is generally understood at an intellectual and policy level but there is very little in place in Local Government to practically implement processes to effect a change to the composition of their workforce;.
- Despite a motion (City of Prospect) at the recent AGM of the Local Government Association asking for consideration of quotas for people with disabilities to work within Local Government, and a subsequent circular by the Local Government Association, there was very little response across the sector;
- What is clear is that to effect a change, some things need to be done differently and the recruitment processes being used might be something that requires serious and consistent review.;
- The RecruitAbility program (website for more information <http://www.apsc.gov.au/aps-employment-policy-and-advice/disability/recruitability>[www.apsc.gov.au/aps-employment-policy-and-advice/disability/recruitability](http://www.apsc.gov.au/aps-employment-policy-and-advice/disability/recruitability)) being used by the Australian Public Service is an example of an affirmative action process designed to enable people with disabilities to compete for employment on a more level playing field and we commend this program for your consideration;

## **Conclusion**

- When the most recent data indicates that nearly 20% of the population lives with some form of disability, it is a social and economic imperative that government at all levels demonstrate and “road test” ways to support inclusive and accessible communities and workplaces;
- Diversity in the workforce makes good business sense;
- Access to sustainable employment is critical to people living with disabilities and to facilitate this, some changes to the recruitment processes may be necessary;
- Reflecting the composition of its community is a reasonable and even desirable requirement of government and can normalise the participation of people with disabilities in the workforce and therefore cultural shift in the way that people with disabilities are seen (and heard) in the general community;



- The reporting framework created by this legislation establishes the necessary accountability and discipline.

We appreciate the opportunity to comment on the Disability and Inclusion Bill 2017.

## Volunteering SA&NT

30 June 2017

Volunteering SA&NT is the peak body for volunteering in South Australia and the Northern Territory (VSA&NT). VSA&NT has promoted and supported volunteers, Volunteer Involving Organisations (VIOs) and the principles of volunteering for over 35 years. VSA&NT is governed by a citizen board, responds to a body of members and works extensively with volunteers, managers of volunteers, volunteer resource centres and VIOs, and has an integral leadership and advocacy role for that community.

VSA&NT provides a range of services, including advice to government, training for volunteers and employees of VIOs, advertising volunteer roles and referrals to VIOs, research and policy development.

We have a positive impact on volunteering, and as a result, we help to improve and sustain the community and the people within it. We believe that all members of our community equally deserve the right to experience the benefits of volunteering, regardless of their backgrounds. There are also many ways that volunteers contribute to the community and the benefits of these contributions are well known, both for economic purposes and the positive social impact on the community.

Volunteering SA&NT believes that volunteering is commonly understood to add meaning to the lives of not only the volunteer recipient but also the volunteer themselves. The main reason given for volunteering tends to be altruistic, such as to 'give something back' to their community, or to an organisation or charity that has supported them in some way. Other reasons for volunteering include the improvement of employment opportunities, widening social circles or using the activity as an alternative pastime in their daily life. It is an opportunity for members of the community to live meaningful lives associated with pursuing a personal interest to make a difference to others, and themselves.

*Volunteers not only make a huge contribution to the lives of the people in our community, they are also essential to connecting people and building social connections through a greater sense of belonging* (Australian Bureau of Statistics (ABS) General Social Survey, Australia 2014, Cat. 4159.0 (ABS, Canberra: 2014))

This is no more important than for people who have a disability.

The focus of the Disability Inclusion Bill 2017 (The Bill) seems to be on service to people with disability, rather than as participants in their own lives as people first, who happen to have a disability. The term 'client' could easily be substituted, which sets a negative connotation.

There is no mention of their power as individuals to plan and own their lives and be afforded the same opportunities as any South Australian. The Bill misses any mention of all aspects of people's lives, from education, employment, relationships, volunteering, socialisation, housing, healthcare etc that form an holistic person, not just for access and equity issues, screening for support workers and a community visitor scheme – all aspects of services that are delivered TO people with disability.

As part of the key features of the Bill, we note that people with disability don't just "want action taken to ensure equal access and inclusion in all aspects of community and social life", people with disability want and rightfully deserve to be decision-makers, planners and owners of any action taken.

### **Some other issues we note are below**

#### **Part 2 - Objects and Principles**

We consider that volunteering has a rightful and obvious place in all aspects of the points made in this section of The Bill. Particularly:

- Volunteering can be seen to fit into number of these items, eg Object 8(b) [pg1] and Principle (1) a – f [pg 5]
- The specific reference to women, children, ATSI and CALD people with disabilities: however this excludes males with disability, which could be construed as discriminatory. Why aren't males afforded the same mention?

#### **Part 4 – State Disability Inclusion Plan**

- The State Disability Inclusion Plan seems to be addressed only to government and local government bodies. How do private and not-for-profit organisations fit into the Plan, when they are the main service delivery agencies?
- Could Volunteering SA&NT or the Volunteering Strategy for South Australia be part of measuring achievement of the objects of the Act?

## **Part 5 – Disability access and inclusion plans**

To ensure that strategies to support people with disabilities includes enabling them to access volunteering, we would like to see another strategy for volunteering added to section (3) (d).

We also consider that an Advisory Group which includes people with disabilities be an essential part of the disability access and inclusion plan for each State authority, which increases participation and recognition, rather than just ‘consultation’, as set out in section (4) (b). An Advisory Group will assist with addressing barriers to all aspects of inclusion, including volunteering, and ensure total commitment to the Plan.

## **Part 6 – Screening of persons working with people with disability**

Volunteering SA&NT believes in and is committed to the appropriate and robust processes and systems for screening volunteers and workers, however we raise our concerns about how will this impact on volunteer recruitment for the volunteer sector, noting that people with disability may themselves be carers and support workers in this volunteering or work space.

## **Part 9 – Information gathering and sharing**

Clause 27 – (2), relating to sharing of information between certain persons and bodies seems to give away the privacy rights of any person with disability against the Australian Privacy Principles (Privacy Act 1998). While this Act may apply to the State Government, agencies working with people with disability do have to comply. We believe it is a fundamental right for people with disability (either personally or through a carer/guardian) to give their consent to information about them being shared with others, unless theirs or another person’s safety is at risk.

We offer our assistance, knowledge and expertise in volunteering for and with people with disability to ensure all aspects of the Disability Access and Inclusion Plan are rightful, fair and appropriate.

This assistance could be in the form of working with agencies/departments to draft Access and Inclusion Plans within their volunteer programs or as consultancies on how to develop and implement volunteering programs with and/or for people with disability.

Volunteering SA&NT welcomes the introduction of the new disability legislation and would be pleased to be part of any further discussion, development and

implementation for the State Disability Inclusion Plan to improve access and inclusion for South Australians with disability.

# **The Office of the Public Advocate, South Australia (OPA)**

## **Introduction**

The Office of the Public Advocate, South Australia (OPA) is grateful for the opportunity to comment on the draft Disability Inclusion Bill 2017 (the Bill).

## **Role of the Public Advocate**

The Public Advocate is an independent statutory officer appointed by the Governor to fulfil statutory responsibilities assigned under the s21 of the Guardianship and Administration Act 1993 (GAA). The Public Advocate also has responsibilities under the Advance Care Directives Act 2013 and Consent to Medical Treatment and Palliative Care Act 1995 as well as the Mental Health Act 2009 and Powers of Attorney and Agency Act 1984.

The Public Advocate is supported by OPA, to promote the rights and interests of people who may need assistance with decision making.

OPA promotes rights through delivering our services. Services includes giving advice, finding alternatives to guardianship, advocacy, investigations, resolution of certain disputes and acting as guardian of last resort. These are delivered by a team of professional and administrative staff.

The Public Advocate may be appointed as the guardian (or joint guardian) of a person with mental incapacity but only if the South Australian Civil and Administrative Tribunal SACAT) considers that no other order would be appropriate.

## **Feedback on the Bill**

### **1. Objects**

The objects appear in clause 8 of the Bill. OPA supports the objects and makes the following comments on each one:

- acknowledging that people with disability have the same human rights as other members of the community and that the State and community have a responsibility to facilitate the exercise of those rights

We support the human rights-based approach that underpins this object.

- promoting the independence and social and economic inclusion of people with disability

We submit that it is very important to recognise the contribution of people with disabilities and to provide active supports to increase levels of employment of people with disabilities.

- providing safeguards in relation to the delivery of supports and services for people with disability

We support this object and stress the importance of recognising the need for appropriate safeguards and standards in relation to the delivery of disability supports and services.

- providing a framework to support a whole of Government approach to improving the inclusion of all South Australians with disability in all areas of life in this State.

We welcome the recognition of the need to improve inclusion of people with disability in *all* areas of life rather than just in respect of specialist disability services. The National Disability Insurance Scheme (NDIS) will cover reasonable and necessary supports for people with a permanent disability. This object is broad enough to recognise the need to improve inclusion of people with disability in the domains of education, transport, health and employment, among other things.

- articulating and facilitating the roles of the State during and following the transition to NDIS

We consider this to be a very important object of the Bill. During transition to the NDIS, there needs to be clear delineation of the roles of the State Government with respect to support for persons with disabilities. This will assist in avoiding gaps in support particularly for people with high and complex needs or vulnerabilities such as young people with disabilities leaving the care system.

## **2. Principles**

The principles appear in clause 9 of the Bill. OPA commends the express recognition of women, children, Aboriginal and Torres Strait Islander and people with cultural and language differences with disabilities.

## **3. Review of Disability Access and Inclusion Plans**

We support provision in the Bill for there to be a disability access and inclusion plan for each State authority (clause 16). Clause 18 provides that these plans must be reviewed by State authorities at least once every 4 years. We submit

that the timeframes for review are too long given that priorities, needs and circumstances can change rapidly. We submit the desirable standard would be for reviews to take place at least once every 2 years and that reviews once every 3 years would be the maximum timeframe permissible.

#### **4. General Comment - Resources**

It is crucial that resources be provided to support, implement and drive the objects of the Bill, the State Plan and the disability access and inclusion plans. We acknowledge the impact of the transfer of disability services resources to the Commonwealth Government for NDIS implementation. However, this important Bill requires appropriate resources at the State level to achieve its objects and principles.