

# Engagement Summary Report

## Disability Inclusion Bill

Prepared by Disability Policy Unit

### Background

The State Government intends to introduce into Parliament new disability legislation that has a focus on improving access and inclusion for South Australians with disability to ensure that all citizens can participate in their communities.

Under the National Disability Insurance Scheme (NDIS), the State Government will no longer directly fund services. Instead, the National Disability Insurance Agency (NDIA) will work with eligible individuals to create a personal budget to pay for their chosen services and support. The *Disability Services Act 1993* will therefore no longer be required under the NDIS.

The Disability Inclusion Bill sets out a whole-of-government approach to promoting the rights and inclusion of South Australians with disability. Achieving an inclusive society is a long-term vision that will require consistent efforts. The Disability Inclusion Bill aims to support this by ensuring that appropriate planning takes place, in a coordinated manner, across state and local government. This planning will underpin a more inclusive community to provide equality of access to services and facilities for people with disability.

### Engagement Process

The Department for Communities and Social Inclusion (DCSI) Disability Policy Unit undertook an engagement process to seek feedback on the draft Disability Inclusion Bill. The State Government's YourSAy website was the primary platform used to engage the public. A copy of the draft Bill and a range of supporting material, including fact sheets and a video, were available on YourSAy during June 2017. The resources assisted stakeholders in understanding the content and impact of the Bill.

Three community meetings were also held in June 2017 to provide information to those unable to participate through YourSAy. Sixty-seven people attended these meetings to hear more information about the Bill, ask questions, and provide feedback. In addition, the Disability Policy Unit received 19 written submissions from stakeholders.



## Findings and outcome

Overall, feedback was largely positive. Stakeholders are supportive of the Bill's purpose to improve access and inclusion for South Australians with disability. The importance of aligning the Bill with the *UN Convention on the Rights of Persons with Disabilities* (UN Convention) and the National Disability Strategy (NDS) was widely acknowledged. Stakeholders were pleased to see that the Bill includes a comprehensive set of rights-based principles, which elevate issues faced by people with disability to state legislation. There was also support for the recognition of different groups of people, such as women, children, Aboriginal and CALD groups, who can experience additional layers of exclusion.

### *Disability Inclusion Planning*

There was broad support from stakeholders for the disability inclusion planning provisions in the Bill, with many agencies already well advanced in this area. The Bill aims to support collaboration of efforts to ensure disability inclusion planning is strategic and coordinated and aligns with NDS outcome areas. It also provides a centralised accountability mechanism through parliamentary reporting processes, which was welcomed.

Much of the feedback and suggestions for improvement received during the engagement process went into specific detail around how best to ensure successful implementation of the requirements, including:

- Capacity building to support people with disability to be involved in the consultation and planning process.
- Integration with regional health plans for local councils and/or joining up with planning requirements in the ageing space.
- Resources for supporting implementation of disability inclusion plans.

It is important to note that the Bill sets the high-level legal framework for the intentions and requirements of disability inclusion planning. Detail around processes, specific consultation requirements, and other expectations will be provided in the accompanying Regulations and guidelines, which are yet to be developed. The suggestions made during the engagement process will be used to inform the Regulations and guidelines, which will provide the operational details for the Act. It is intended that these Regulations will be made once the Bill is passed into law. There will be further opportunity to participate in the development of these key documents.

Importantly, stakeholders supported the general idea of disability inclusion planning as outlined in the Bill.



Some stakeholders suggested that disability inclusion planning should be extended to include private business and community organisations. This is further welcome evidence of support for the concept of disability inclusion planning. The present scope of the requirements will commence with State Government departments statutory authorities and local councils. We will see how this is tracking when the legislation is reviewed three years after its commencement. However, it is worth noting that the private sector is required to meet standards set by the *Disability Discrimination Act 1992* (DDA), which prevents discrimination on the basis of disability.

A range of queries were raised about disability inclusion planning during the engagement process:

- Timing for roll-out of disability inclusion planning -

Agencies already preparing Disability Access and Inclusion Plans (DAIPs) queried when the new requirements would be in place.

It is business as usual for now for agencies preparing DAIPs. Agencies should rest assured their current work will not be wasted. There is still work to do, including the Bill's passage through Parliament, before the requirements under Part 5 of the Disability Inclusion Bill come into force.

The Disability Inclusion Bill is a first step towards establishing the State Government's renewed focus on the principles of the NDS. The next step will be the development of accompanying Regulations and guidelines to provide the detail needed to implement the high-level requirements set out in the Bill.

The State Disability Inclusion Plan will be prepared after the Bill and Regulations are passed into law, and this will be done following a period of consultation. Once this State Disability Inclusion Plan is in place, agencies will then need to comply with the new requirements. Agencies will be updated about timelines for compliance as the legislation and plans are developed, however, no change to current business requirements are expected within the next 12 months.

- Funding and/or resources to support disability inclusion planning -

Some suggested that the Bill should provide for additional funding or resources to assist in the development and implementation of DAIPs. While funds are not available for this purpose at the current time, other useful resources are and will be made available for agencies captured by the requirement to develop and implement DAIPs. Support to develop DAIPs is available from the DCSI Disability Policy Unit in the form of information,



templates, guidelines and staff expertise. This will continue to be widely available once the Bill is operational. The Disability Engagement Register, administered by the Disability Policy Unit, is another valuable resource available to support agencies in their engagement efforts.

It is also worth noting that the availability of resources to support the disability inclusion planning process is not dependent on the Bill. As previously mentioned, the Bill sets the high-level legal framework to support the concept of disability inclusion planning. The manner in which this is implemented, including how it is resourced, does not need to be covered in the Bill.

### ***Consultation Requirements***

A common concern raised by stakeholders during the engagement process was that the Bill lacked a formal mechanism for ensuring the voice of people with disability is heard in government decision-making.

The Minister's Disability Advisory Council (MDAC) was dissolved in 2014 through a government reform process aimed at streamlining and enhancing existing board and committee structures. The MDAC was replaced with the Disability Engagement Register as an alternative method of engaging people with disability, their families, carers and advocates. Efforts have been devoted to strengthening the Disability Engagement Register, which seeks to include more voices in government decision-making and there are currently 320 members. Anyone who is interested in joining the Register should visit [dcsi.sa.gov.au/disability-register-join](http://dcsi.sa.gov.au/disability-register-join).

The draft Bill reflects the State Government's current approach to engaging people with disability through consulting as many people as possible. However, the idea of legislating for a mandated mechanism will be given thorough consideration at the first review, once the Bill is passed into law.

The draft Bill recognises the importance of involving people with disability in the inclusion planning process. Agencies are obligated to consult people with disability and their representatives when developing and reviewing plans. The Bill sets out the high-level requirements to consult, with the details to be worked through in the accompanying Regulations and guidelines. There will be further opportunity for people to participate in the development of these resources at a later date.

### ***National Disability Insurance Scheme***

Participants in the engagement process raised many questions about the NDIS. There was some confusion expressed at community meetings about how the NDIS and the NDS fit together.



The NDIS is a Commonwealth scheme that will provide funding for reasonable and necessary supports that enable an eligible person with disability to participate in daily life. It will cover specialist disability services in South Australia.

The Disability Inclusion Bill is focused on the NDS, which is about making the community more inclusive and supports and services that are available to everyone (mainstream supports and services) more accessible to people with disability. This is because living a fulfilling life is about more than access to specialist disability services; it's also about ensuring everyone can participate in their communities. This will be the focus for the State Government under the Disability Inclusion Bill.

It is acknowledged that there is a lot happening in the area of disability at the moment, and that the changes are significant. It may take time before everyone fully understands and experiences the changing roles and responsibilities between Commonwealth and State Government. The Disability Inclusion Bill aims to clarify this separation of roles by providing the legal framework for the State Government's ongoing commitment to people with disability through the implementation of the NDS.

### ***Worker Screening***

There were a number of questions about the effect of Part 6 of the Disability Inclusion Bill, which sets out the broad requirements for a 'Working with People with Disability Check (WWPWDC).' Stakeholders queried whether they would need to meet the requirements.

Current requirements for worker screening in the South Australian disability services sector is covered by the *Disability Services Act 1993*, which, as discussed, will not apply when the NDIS is in full scheme. Therefore, a new legislative basis for worker screening is needed in the future, and the Disability Inclusion Bill provides this vehicle.

Importantly, this section of the proposed legislation simply provides for the establishment of a disability screening scheme and would therefore only come into operation once Regulations have been drafted. At this early stage, it is intended that the screening requirements will apply to service providers operating under the NDIS, as per the National Quality and Safeguarding Framework. The screening system and information considered as part of the screening process is not expected to be vastly different to what currently exists. Those who will be required to undergo a screening assessment under Part 6 of the Bill will be informed as details are established through the Regulations. This will include consulting stakeholders about various features of the WWPWDC.



## Other feedback

Other feedback received focused on:

- The definition of 'disability' and its alignment with existing legislation.

The definition of 'disability' adopted in the Bill reflects a social model of disability, which accords with the UN Convention. It is the preferred definition as it recognises that attitudes, practices and structures can be disabling and can prevent people from enjoying economic participation, social inclusion and equality. This definition fits within the context of the proposed Bill, as opposed to the one contained in the DDA which is more medicalised and diagnosis focused.

The context also differs from the DDA and the *National Disability Insurance Scheme Act 2013* because these Acts establish eligibility criteria for individuals to access services and other benefits, such as recourse for individual discrimination. There is no need to establish individual eligibility under the Disability Inclusion Bill; everyone who has difficulties with access and inclusion can benefit from its features. It also makes sense to use the definition from the UN Convention, given the close alignment between the intent of this key document and the Disability Inclusion Bill.

The definition has, however, been amended to include 'psycho-social' in the list of recognised disability types.

- Clarifying that, where the Bill mentions 'supports and services', this refers to 'mainstream supports and services' rather than disability-specific ones.

It is the intention of the Bill that where supports and services are mentioned, this applies to all mainstream services, programs, facilities and supports provided by state government agencies, local councils and included statutory authorities. This has been clarified in the Bill, with 'mainstream' inserted where appropriate.

- Clarifying some of the language in the Bill to ensure a 'child focused lens' is applied in relevant sections.

Other useful feedback highlighted the need to ensure that where the Bill applies to children, that a child-focused lens is applied. Wording in the Principles under section 9, applicable to children, has been amended to reflect this approach.



- Timeframes for feedback.

Some stakeholders commented on the timeframe for the engagement process. Stakeholders were given four weeks to participate. This was due to the limited amount of time available before Parliament is likely to rise for the state election scheduled for early next year. The impact of the limited timeframes for engagement is acknowledged. However, the process to develop and introduce new legislation has needed to be fast-tracked to meet tight deadlines. Additionally, as already mentioned the Disability Inclusion Bill is the first step in establishing a renewed focus for the State Government of disability access and inclusion in line with the NDS. The Bill sets the broad requirements of disability access and inclusion planning. There is still a lot of detail to work through and there will be opportunities for stakeholders to be involved, particularly those captured by the requirement to prepare a DAIP. Similarly, there will be further opportunities to be involved when the legislation is reviewed three years from commencement.

## Summary

The DCSI Disability Policy Unit thanks everyone for their participation in this engagement process. We will now focus our attentions on turning the Disability Inclusion Bill into law.

There will be further opportunities for public engagement as we develop the Regulations necessary to operationalise the legislation. In addition, there will be opportunities to participate in a full review of the legislation in three years, once we have had time to assess how it is going in conjunction with all the changes introduced through the NDIS.

Your feedback through this process has provided important information that is vital for us in writing legislation. We will use it to create the framework and requirements for a more inclusive society for people with disability, their families and carers.

