

Women with Disabilities ACT
Submission to
**Review of the NDIS Act and
Participant Service Guarantee**

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Women With Disabilities ACT acknowledges and pays respect to the Ngunnawal peoples, the traditional custodians of the ACT Region, on whose land our office is located. We pay our respects their Elders past, present and emerging. We acknowledge their spiritual, social, historical and ongoing connection to these lands and the contribution they make to the life of the Australian Capital Territory.

Winner 2012 International Women's Day Award, Community Category
Winner 2015 ACT Chief Minister's Inclusion Awards, Excellence in Championing Human Rights

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About WWDACT

Women with Disabilities ACT (WWDACT) is a systemic advocacy and peer support organisation for women, girls, non-binary and feminine identifying people with disabilities in the ACT. WWDACT follows a human rights philosophy, based on the Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of (all forms of) Discrimination Against Women (CEDAW). WWDACT is a Disabled People's Organisation, governed by women* with disabilities, and its proposals and recommendations to government are consistent with Article 4 (3), and Article 29 of CRPD which outline the imperative for consultation with disabled peoples.

Women's Experience of the NDIS in the ACT

Women With Disabilities ACT outlined several of the experiences of women accessing the NDIS in our submission to the ACT Government's Inquiry into the implementation, performance and governance of the National Disability Insurance Scheme in the ACT¹. Currently, women only make up approximately 37%² of participants across the scheme, which may be indicative of broader gender inequality³. This low allocation of NDIS Plans to women with disabilities also occurs in the ACT where full rollout was achieved in 2018, even though there are more women than men under the age of 65 in the ACT.

There is an opportunity in this review to reduce some barriers that specifically affect women accessing the scheme and ensure that gender is more appropriately considered in planning and service delivery. The administrative and financial burden which many have reported when applying for the NDIS has an increased effect on women, due to poorer transition from education to employment, higher incidence of violence, increased poverty. It is therefore essential that the legislation and Rules recognise the unique needs of women*.

1. Access Requests

The gateway for access to the NDIS is too narrow and too reliant on paper application forms. Applications should be able to be made online, and a response timeframe included in the Participant Service Guarantee (PSG).

2. Changes to Planning and Reviews

We believe that defined, enforceable timelines between acceptance into the scheme and commencement of planning are necessary to reduce the delays in access to services that people with disabilities are currently experiencing.

One WWDACT member described their experience in WWDACT's 2018 submission as:

"Very poor time frames and communication around waiting periods, e.g. a 6-month wait from acceptance into scheme till planning meeting; then 6-month wait from OT report till

¹ S. Salthouse, 2019. <https://www.wwdact.org.au/wp-content/uploads/2018/04/180330-WWDACT-Legislative-Assembly-NDIS-Inquiry.pdf>

² NDIA Quarterly Report Q3 2018-19 <https://www.ndis.gov.au/media/1358/download>

³ E. Malbon, G. Carey, 2019. <https://theconversation.com/women-rural-and-disadvantaged-australians-may-be-missing-out-on-care-in-the-ndis-120081>

equipment approved, then still waiting for equipment a year and a month from acceptance into the Scheme.”

WWDACT continues to hear regularly from women* who wait for up to a year for crucial equipment such as wheelchairs. Anecdotally, women* and women’s service providers in the ACT have reported that these delays have caused increased mental health issues, family stress and breakdown, social isolation and poorer health outcomes. WWDACT believes that tighter timelines for the Agency are necessary to ensure that participants are able to participate in community life and meet their goals.

Other challenges that WWDACT members have reported during the planning process include poor communication from and between LACs and the NDIA, new plans commencing without all documentation being submitted, and a lack of accessible and appropriate information on processes.

WWDACT believes that Channel Management needs to be improved. Response times for calls to the 1800 number need to be included in the Participant Service Guarantee (PSG). Frontline staff need better training to have the skills and authority to redirect calls. This service should be quick, seamless, and give consistent information.

3. Plan Amendments

WWDACT supports the introduction of plan amendments which allow participants to update their current plans to accommodate changes in their lives and circumstances, rather than requiring a full review. However, the plan amendment process must be responsive, flexible and transparent to be a true improvement from the plan review framework. Done correctly, this would be a practical change that will better account for each individual’s personal circumstances. This change should also allow participants to request changes where their plans have proven to be inadequate, rather than waiting until the end of the 12-month period⁴.

Plan amendments would be particularly helpful for women* with disabilities affected by domestic and family violence who need to change their care arrangements. While work has been undertaken to make the NDIS more responsive to women* in this circumstance, plan amendments would provide further flexibility and reduce barriers to escaping violence. Currently the administrative and emotional burden of new planning meetings is placed on participants, who may be undergoing significant stress due to gaps in plans, family changes, moving or health changes. Reflecting this, it is crucial that the amendment process is simple and straightforward.

WWDACT believes that ‘value for money’ of the Scheme will be improved if participants were able to Review their draft plans before these are sent to the delegate for approval. WWDACT has anecdotal evidence from constituents at meetings, that planners frequently misinterpret medical evidence and/or equipment quotes (or fail to submit them) or do not understand an expressed goal, or capacity building aim. As a result, incorrect allocations are then put into the draft plan. These could be corrected with further short discussion. The current way of handling plan development is not transparent.

WWDACT further believes that the LAC planners could be given the powers of a delegate in certain circumstances, for example, for plans of less than a certain dollar value such as \$100K. This would

⁴ DPOA Submission to Productivity Commission Inquiry: National Disability Insurance Scheme (NDIS) Costs (April 2017) http://dpoa.org.au/wp-content/uploads/2017/04/DPOA_PCIssuesPaper_NDIScosts_-310317.docx

mean that many plan amendments and even an Internal Review could be handled immediately. This would simultaneously free us NDIA staff for review of more complex cases.

The time frames allowed for participants to lodge a request for a full plan review need to take into account the time needed to obtain medical reports, because appointments with specialists can have a lengthy time lag. Conversely, when the NDIS fails to process an application in a timely way, and as a result regards medical reports as out of date, the PSG should require that the NDIS pays for any costs incurred in getting new reports and does not apportion blame on the participant for any timeframe blowout.

4. Participant Service Delivery Guarantee

WWDACT supports the delivery of a participant service guarantee which will promote more consistent experiences for participants across the scheme. However, we believe that the principle “Accessible” should include women* as a specialised group, as many women* are unable to receive services that are appropriate and sensitive to their needs. For example, in WWDACT’s submission to the ACT Government inquiry, a WWDACT member described their planning process as:

“Disempowering ... the Planner [pushed] certain services that I did not need or want, and [wrote] goals and personal information in my plan that was incorrect, poorly written, and in some cases incomprehensible.”.

We would also like the service standard to be amended to go beyond “provid[ing] information to meet the needs of specialised groups” to “providing information, planning and processes appropriate to the needs of specialised groups”. We believe that this would encourage the agency to increase the competence of their staff in working with these groups in the planning process, and if necessary, introducing more appropriate processes for groups who are facing barriers to accessing the scheme in its current form.

5. COAG Amendments from the 2015 NDIS Act Review

WWDACT refers to the descriptions of the amendments in Attachment C of the Discussion Paper.

Section to be amended	Recommendation on Amendment
Subsection 4 (9)(a)	WWDACT supports the inclusion of people with disability in a co-design capacity, however, it is unclear what the word ‘co-design’ means without principles and processes to accompany it. This is consistent with the General Principles of the Convention on the Rights of Persons with Disabilities which requires full and effective involvement of people with disabilities in policy development
Subsection 17A	Supported. WWDACT agrees that the Act should require all people acting under the NDIS Act take into account the guiding principles, which are based in Australia’s commitment to human rights for people with disabilities.
Subsection 127 (2)(a)	WWDACT refers to the DPOA submission to the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017 ⁵ , which points out that

⁵ DPOA submission to the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017, http://wwda.org.au/wp-content/uploads/2016/01/DPOA_Submission_QSBill2017_-280717.pdf

*women, girls, non-binary and feminine identifying people

	<p>the term ‘lived experience of disability’, “<i>obscures the central role that people with disability should have in the NDIS [...] and implies that others can speak, make decisions for and have the same experiences as people with disability themselves</i>”.</p> <p>Any amendments to this section should refer to people with disability, to strengthen the representation and leadership role of people with disabilities. This aligns with Article 4(3) of the Convention on the Rights of Persons with Disabilities.</p>
Subsection 209 (3)	Supported. WWDACT believes that it is necessary to ensure that the Minister considers all the objects and principles of the NDIS Act when making Rules, not just financial sustainability, particularly those concerning Australia’s human rights obligations.

Conclusion

Women with Disabilities ACT supports the amendment of the NDIS Act to include defined timelines, plan amendments and the development of a Participant Service Guarantee. We believe that a gendered lens is needed to ensure that these processes appropriately address the needs of women with disabilities seeking to access the scheme.

Endorsements

WWDACT would like to endorse the submissions of our colleagues at ADACAS and Advocacy for Inclusion to this review.

*women, girls, non-binary and feminine identifying people