**Submissions in response to proposed legislative changes to the NDIS**

27 September 2021

**Background**

I appreciate the opportunity to provide submissions in relation to proposed changes to the legislation and rules that regulate the NDIS. I write from the perspective of a participant in the NDIS, who has a significant and complex disability.

I found the timeframe to respond to the proposed legislative and rule changes to be quite short and I have not been able to review all the proposed changes and those that I have reviewed are not reviewed in detail. However, I hope these brief submissions will be of assistance in considering the proposed legislative and rule-based changes.

I have made my submissions under the headings:

1. Protecting people who had supports through the state systems prior to the NDIS;
2. Supporting continued access to non-registered providers;
3. Supporting recurrent funding;
4. Evidence requirements for the provision of services; and
5. Conclusion
6. **Protecting people who had supports through the state systems prior to the NDIS**

I note that the proposed bill removes the transitional provision relating to the establishment of the NDIS. Under the bilateral agreements that were established between the state and Commonwealth governments, NDIS participants, who received funding and services prior to the introduction of the NDIS, were protected by the “no disadvantage test”, so that they should not receive supports that were less than what they had through the schemes that previously operated. I note that there does not seem to be any such protection in the proposed legislation or rules.

Given that recipients of state -based services had no choice but to transition to the NDIS, there should be some protection of these participants so that the “no disadvantage test” should apply to protect the supports that these participants were accessing prior to the NDIS.

1. **Supporting continued access to non-registered providers**

The proposed changes to the NDIS Act and the introduction of the plan administration rule seem to indicate that the NDIA, at its own discretion, will be able to pay service providers directly from the participant’s funding even if that funding is self-managed.

If providers are to be paid directly from participant’s funds, where a participant’s funding is self-managed, this should only occur with the participant’s consent. The proposal for service providers to be paid directly from participant’s funding appears to favour registered providers, who will already have the systems set up with the NDIS.

Paying service providers directly will also disadvantage participants in their ability to negotiate prices with service providers. Many participants are able to use their funding most effectively and achieve best value for money by using nonregistered providers and/or not disclosing to providers what the funding source is. It is well recognised that many providers, when they know the NDIS is paying for supports, significantly increase their prices to the exorbitant price guide rates or above Price Guide rates (if possible). This has the effect of advantaging the service provider only and disadvantaging the participant in their ability to negotiate with service providers.

Given the government’s current concern about the sustainability of the NDIS, supporting participants to negotiate the best prices possible with service providers makes good business sense. Supporting non-registered providers is likely to support small businesses in local communities, who are in a much better position to deliver flexible and therefore more person-centred services.

Wherever possible, self -management of NDIS funding should be supported and encouraged. It is in the participant’s interests to use their funding wisely so that they can receive the best supports at the lowest cost, in order to minimise the impacts of disability. It is also in the Government’s and societal interest to support Participants to negotiate the best prices with providers to support the sustainability of the scheme. Participants are best supported to negotiate with providers, when the source of funding does not have to be disclosed.

1. **Supporting recurrent funding**

I note that there are some changes to plan variations and reassessments that may result in the introduction of recurrent funding. Where participants are satisfied with their funding; the Participant has a permanent disability and their support needs and disability remain stable, the funding should be made recurrent, as it was previously for many participants under the State Systems. If additional funding were to be required, a participant could approach the NDIA for a review.

To support the social and economic inclusion of participants as well as their choice and control, it is important for the government to minimise its involvement in the lives of people with disability. This supports the principle underpinning the NDIS: enabling participants to live an ordinary life. Excess government involvement in a person’s life (including a continuous need to prove the need for support when nothing has changed) does not represent an ordinary life.

1. **Evidence requirements for provision of services**

Under the proposed changes in the plan administration rule, it seems that participants will be required to keep the ABNs of service providers. It is important that participants are not expected to always have an ABN for service providers, as not all service providers have ABNs. For example, some disability -specific service providers may be based overseas, such as AIRA which is used by many people who have low vision or are blind. In addition, it may not be easy for a participant who is blind or has low vision to access a service provider’s ABN, such as to enter that information into the NDIS portal. I understand that this feedback has already been provided to the NDIA, when changes were introduced to the NDIS App (without consultation).

I acknowledge that it is important for evidence of service provision to be kept for five years from the date of service, however, there should be flexibility in the information that is required.

1. **Conclusion**

In conclusion, I appreciate the opportunity to provide submissions in relation to the proposed legislative reforms to the NDIS. The NDIS provides essential supports to me and many others, that enable social and economic participation. It is important that any changes to the NDIS are carefully considered and are focused on participants, as the NDIS was set up as a beneficial system for people with disability.