

NSW DISABILITY NETWORK FORUM

SUBMISSION TO THE

NATIONAL DISABILITY STRATEGY IMPLEMENTATION PLAN EXPOSURE DRAFT

LAYING THE GROUNDWORK 2011-2014



The NSW Disability Network Forum

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About the NSW Disability Network Forum

Initiated in June 2011, the NSW Disability Network Forum (DNF) comprises non-government, non-provider peak representative groups whose primary aim is to promote the interests of people with disability. The aim of the NSW Disability Network Forum is to provide a new avenue to build capacity within and across all organisations and groups so that the interests of people with disability are advanced through policy and systemic advocacy. NCOSS provides secretariat to the NSW Disability Network Forum as part of funding from Department of Family & Community Services, Ageing, Disability and Home Care. More information is available at appendix A.

About NCOSS

The Council of Social Service of NSW (NCOSS) is an independent non-government organisation and the peak body for the non-government human services sector in NSW. NCOSS has a vision of a society where there is social and economic equity, based on cooperation, participation, sustainability and respect. NCOSS works with its members on behalf of disadvantaged people and communities towards achieving social justice in NSW.

INTRODUCTION

At its meeting on 29 November 2011, the NSW Disability Network Forum received presentations from NSW Department Family & Community Services, Ageing Disability and Home Care (ADHC) regarding the National Disability Strategy (NDS). ADHC provided detailed information on the NDS, explaining the development of an NDS Implementation Plan and requesting feedback on the expected Exposure Draft. Additionally, ADHC approached the NSW Disability Network Forum for real and practical ideas on how to kick off the NSW implementation plan.

The Forum received the Exposure Draft in the afternoon of 14th December and met to develop its response on 16th December. Due to the timing of the consultation process as it coincides with unavoidable staff leave at the secretariat and among DNF member organisations over Christmas and throughout January, the DNF response had to be submitted by the end of December.

The DNF, in considering feedback on *Laying the Groundwork*, also discussed the confidential nature of the Exposure Draft. In addition to the feedback to ADHC, members resolved to return this submission directly to the Hon Jenny Macklin, Minister for Disability Reform and Senator The Hon Jan McLucas, Parliamentary Secretary for Disabilities.

The NSW Disability Network Forum reviewed the *Laying the Groundwork* Draft in Confidence as well as the Feedback guide. The six Outcomes were discussed, along with the Policy Directions and the Areas for Future Actions.

Who should drive the Plan?

In all things to do with the National Disability Strategy, the person with disability must be at the centre. The NDS must ensure a strong voice for people with disability. This voice must be prominent within the NDS. But what does this mean?

The person with disability must be recognised, acknowledged and promoted in the NDS as an expert in their own life. This equally applies to any Implementation Plan of the NDS. The NDS Implementation Plan must be driven by people with disability. The *Laying the Groundwork Draft* does not make this clear. People with disability appear to be among the stakeholders and only consulted on the Plan.

The NSW Disability Network Forum contends that people with disability must drive the NDS for it to be the genuine success it is intended to be.

But the DNF cautions that because a person with disability is an expert in their own life, this does not automatically confer expertise across all areas of disability. This means that the knowledge of an individual may be limited to their personal experience. Comprehensive disability expertise can be guaranteed through the involvement/participation/inclusion of people with disability via their representative organisations, thereby ensuring accountability back to the very people whose interests are being represented.

The full participation of representative organisations of people with disability would also:

- serve to stimulate community confidence in the NDS;
- assist in the promotion and cooperation of the strategies; and
- prompt realistic expectations of government departments to change to respond to people with disability as a part of regular business.

The NSW Disability Network Forum realises that this important and critical participation could be perceived as a barrier. The DNF does not believe that the participation of representative organisations of people with disability will be so cumbersome as to slow the progress or success of the Implementation Plan. On the contrary, the DNF contends that this crucial participation will:

- facilitate more effective decisions;
- reduce potential unnecessary duplication and non-essential priorities; and
- facilitate partnerships that may assist in and promote implementation.

In discussions on the *Laying the Groundwork Draft*, it became clear that many of the issues had been covered in an earlier document, developed collaboratively in 2008 and endorsed by major disability organisations and individuals. Attachment B is the Position Statement entitled: *Our campaign for a robust National Disability Strategy: Improving the lives of Australians with disability*. While supporting the paper in general, the DNF draws particular attention to the early statements on the prominence of expertise of people with disability.

Outcomes and Policy Directions

The DNF agreed with the Outcomes and the Policy Direction statements contained in the NDS and decided that these provided a good platform from which to build lasting participation, inclusion and responsiveness of and to people with disability in Australia. Further, the DNF discussed and agreed with the “six key elements that will drive the NDS policy outcomes and directions.”¹ The DNF did not however agree with many of the details following each of the Policy Direction statements in the *Laying the Groundwork Draft*.

Not an Implementation Plan

An Implementation Plan arising from the National Disability Strategy should contain realistic and measurable targets for the progress and advancement of outcomes for people with disability. The *Laying the Groundwork Draft* does not contain real targets, measurable results, or performance indicators. The DNF determined that the *Laying the Groundwork Draft* is not significantly different from the NDS, just with more detail.

Many of the Areas for Future Action in the *Laying the Groundwork Draft* do not indicate progress but only describe actions that are already underway or that sustain existing programs. Given that the NDS is explicitly a Plan to progress and improve the six key outcomes for people with disability, the NSW Disability Network Forum is disappointed that so many of the 53 future actions maintain the status quo. The *Laying the Groundwork Draft* at present measures where we are now rather than where we want to be in 2020 and whether or how we are getting there.

The ratified National Disability Strategy rightly “builds on the significant work undertaken to date by all governments”². This “building” work in the *Laying the Groundwork Draft* is not evident if the future actions for the next three years propose no more than is occurring before the start of the Implementation Plan. In other words, the *Laying the Groundwork Draft* seems to show that very little that is new will happen for people with disability in many areas. Consequently it is very difficult to understand where the improvements and progress in the *Laying the Groundwork Draft* will occur for people with disability over the first three years of the Plan.

A successful Implementation Plan

The NDS Implementation Plan should identify goals to be achieved by 2020, with targets within that time for accomplishments by various areas of government. Then for each of the six Outcomes, a critical path analysis will ensure the appropriate planning. Partnerships using the expertise of disability representative organisations will ensure the optimum implementation of the NDS as well as productive ongoing working relationships. In this way, learning and knowledge can be shared both across government and across the disability sector.

¹ *Laying the Groundwork Draft*, p.8.

² National Disability Strategy 2010-2020 Forward

An effective NDS Implementation Plan must:

- provide measurable outcomes for all future actions (how successful);
- identify explicit performance measures (how do we know it is done);
- indicate actions with timeframes (what is done by when);
- attribute responsibility for actions (who does it);
- evolve to respond to additional emerging gaps and priorities (what was left out, what more can be done);
- be very clear to each department about what they need to do to implement the NDS; and
- have a clear evaluation mechanism.

The DNF supports the Position Statement (see Attachment B) which promotes the importance of disability representative organisations in the governance arrangements of the NDS to assist in improving operational success.

Aboriginal and Torres Strait Islander people with disability

There is a notable absence of strategic directions in relation to Aboriginal and Torres Strait Islander people with disability in the *Laying the Groundwork Draft*. The NSW Disability Network Forum cannot endorse any national or state plan that does not specifically and intentionally address the inclusion issues of Aboriginal people with disability from all levels of program governance right through to the measure of performance and evaluation at completion. These strategic directions must be included at the time of development of the overall Plan, not as an afterthought.

People with disability from diverse cultural backgrounds

Similarly, the *Laying the Groundwork Draft* does not describe policy directions or future actions that specifically address the exclusion and disadvantage of people with disability from diverse cultural backgrounds. Again, the NSW Disability Network Forum must reserve support for a Plan that does not include this section of the disability population. Historical experience teaches us that implied inclusion of this group simply continues or even escalates the cycle of exclusion.

Language

There was significant discussion among members of the NSW Disability Network Forum about the language used in the *Laying the Groundwork Draft*. While some members were very disappointed, several said they were deeply offended by the use of some terms in relation to people with disability. Examples include “People with disability deserve a community that is designed to include them³” and “...so that people with disability feel included...⁴” The use of these and other such terms in this context is considered condescending and insulting.

There was also some confusion in the *Laying the Groundwork Draft* between the six Outcomes, the Policy Directions, the six key elements and the Areas for Future Action as they appear in the document. An effective implementation plan would clearly outline how these relate to each other, with accompanying features as described above (see *A successful Implementation Plan*).

³ *Laying the Groundwork Draft*, p.15

⁴ *Laying the Groundwork Draft*, p.15

Transparency

The NDS must engender the confidence of people with disability, their families and carers, the general community and government if it is to be the success it genuinely seeks to be. The schedule of reporting must include regular planned public reporting in a timely manner, available in accessible formats.

Disability Champion Ministers

The NSW Disability Network Forum agreed that this could be a good approach to stimulate and strengthen the policy outcomes in the NDS. The DNF had some questions on how this would be initiated, how it would be sustained and promoted regularly over the term of the NDS and where the best place to coordinate support for these Champions Ministers would be. The *Laying the Groundwork Draft* did not cover any of these important issues.

The way forward

The NSW Disability Network Forum is offering to be a resource for the NDS and its implementation in NSW and strongly recommends that disability representative organisations and structures are similarly utilised at the national level. In fact, disability advocacy and representative organisations have been meeting at the national level with the express purpose of working towards the best outcomes of people with disability under National Disability Reforms. This provides a valuable proactive opportunity for government to capitalise extensive expertise as well as an excellent opportunity for participating organisations, such as the DNF, to remain informed of latest reform developments.

In recommending that the *Laying the Groundwork Draft* is overhauled and upgraded into a realistic implementation plan, the DNF recognises that this is likely to delay planned timetable of COAG sign-off. Accordingly, the DNF recommends that in February COAG be asked to consider for approval the following headline elements:

1. improved governance and monitoring arrangements for the Implementation Plan, including the involvement of disability representative organisations,
2. a reviewed schedule of development of a renewed Implementation Plan and
3. a proposal for deeper consultation prior to the second and third stages of the Implementation Plan

This will allow appropriate COAG endorsement and Commonwealth Departments to begin to preparations for the NDS, while an comprehensive and progressive Implementation Plan (with features as described above) can be developed that encompasses the National Areas of Cooperation and also involves the state and territory implementation Plans.

Summary of Recommendations

1. People with disability must drive the NDS Implementation Plan
2. NSW government utilises the expertise of the NSW Disability Network Forum as a resource to assist with the NDS implementation plan at state level
3. Commonwealth government utilises the expertise of disability representative organisations as a resource to assist with the NDS implementation plan at the national level
4. *Laying the Groundwork Draft* is overhauled and upgraded into a comprehensive and progressive implementation plan as intended by the NDS.
5. Strategic directions in relation to Aboriginal and Torres Strait Islander people with disability are explicitly included in the new Plan
6. Policy Directions and Future Actions for people with disability from diverse cultural backgrounds are included in the new Plan
7. There must be regular planned public reporting built into any NDS Implementation Plan that is provided in a timely manner and made available in accessible formats.
8. That early in 2012, COAG receives for consideration for approval a series of headline elements regarding NDS implementation, including improved governance arrangements, a renewed development schedule and consultation proposal.

CONCLUSION

The National Disability Strategy is critically important to the participation and inclusion of people with disability in Australian society. The implementation of the NDS must be well considered and capably applied to provide authentic opportunities for success for the proposed outcomes.

The NSW Disability Network Forum recognises the genuine commitment of the Commonwealth and NSW governments to the NDS and its implementation. Accordingly, the DNF has worked hard to provide this feedback on the *Laying the Groundwork Draft* despite the difficult timeframes.

The NSW Disability Network Forum is offering the extensive and comprehensive expertise of its members to engage on an ongoing basis with government towards achievements under the NDS.

Should any further information or clarification be required, please contact NCROSS secretariat: Senior Policy Officer Christine Regan chris@ncoss.org.au ph. 92112599 ext. 117 or Policy Support Val Kors (Wed – Fri) val@ncoss.org.au ph. 92112599 ext. 123.

ATTACHMENT A: NSW Disability Network Forum description and list of members

ATTACHMENT B: Position Statement *Our campaign for a robust National Disability Strategy: Improving the lives of Australians with disability*

ATTACHMENT A

NSW DISABILITY NETWORK FORUM

The **NSW Disability Network Forum** was initiated in June 2011 to represent and promote the interests of people with disability and to provide a mechanism to advance common interests amongst a diverse range of disability organisations and representatives. The **NSW Disability Network Forum** will facilitate the collaboration of non-government, non-provider peak representative groups whose primary aim is to promote the interests of people with disability. The aim of the Forum is to provide a new avenue to build capacity within and across all organisations and groups so that the interests of people with disability are advanced through policy and systemic advocacy.

Council of Social Service of NSW (NCOSS) provides secretariat support to the Forum, as part of new funding from Ageing, Disability and Home Care, Department of Family and Community Services.

In the current environment of possibility for people with disability, the **NSW Disability Network Forum** presents a new opportunity for non-government, non-provider peak, advocacy and information agencies to help to shape a new future for people with disability in NSW. The Forum will also strengthen the voice of representatives and organisations to contribute to that new future.

The **NSW Disability Network Forum** will meet monthly during 2011 and bimonthly from 2012 to co-ordinate campaigning on issues of significance among people with disability, make representations on disability issues in NSW to Government, advise Government and others on policies impacting on people with disability and promote issues relating to people with disability across mainstream sectors and in the community at large.

Member organisations of the NSW Disability Network Forum

Aboriginal Disability Network NSW	Association of Blind Citizens of NSW
Brain Injury Association NSW	Citizen Advocacy Western Sydney
Council of Social Service of NSW	DeafBlind Association NSW
Deaf Society of NSW	Deafness Council NSW
Intellectual Disability Rights Service	Institute For Family Advocacy
NSW Consumer Advisory Group - Mental Health	Multicultural Disability Advocacy Association of NSW
NSW Disability Advocacy Network	NSW Council for Intellectual Disability
People with Disability Australia	Physical Disability Council of NSW
Positive Life NSW	Self Advocacy Sydney



The **NSW Disability Network Forum** can be contacted through the NCOSS secretariat Christine Regan chris@ncoss.org.au ph 92112599 ext 117 or Val Kors (Wed – Fri) val@ncoss.org.au ph 92112599 ext 123

PURPOSE

The **NSW Disability Network Forum** adopted Terms of Reference at its August meeting which stated the purpose of the Forum:

- a) To develop a better understanding by disability peak organisations in NSW of new and emerging trends and developments affecting public policy and service delivery for people with disability.
- b) To consider feedback from people with disability through Forum members and other mechanisms, on the adequacy, scope, range, availability and quality of disability service supports, mainstream sectors and the community at large.
- c) To advance debate and discussion on these issues with a view to influencing and enhancing the policy development process and advising Government and others on disability policy directions, or policies impacting on people with disability, within NSW and nationally.
- d) To make representations with and on behalf of people with disability in NSW to Government, and present a co-ordinated front in campaigning on issues of significance for people with disability.
- e) To work together to promote a better understanding in the broader community of people with disability.
- f) To develop and advance positions of common interest, understand where and why differences occur and how those differences can be addressed
- g) To provide a safe place for robust discussion.
- h) To work collaboratively and represent combined voices in the interest of people with disability.
- i) To strengthen the role of peaks, advocacy, information services both individually and as a collective.

**Our campaign for a robust National Disability Strategy:
Improving the lives of Australians with disability**

Position Statement 1

The National Disability Strategy (NDS) is a major opportunity, and a critical strategic policy instrument through which, to improve the lives of Australians with disability. It will be a principal means of implementing the obligations to which Australia is now bound under the Convention on the Rights of Persons with Disabilities (CRPD), and for ensuring that the Commonwealth's social inclusion agenda penetrates in a meaningful way to the lived experience of persons with disability.

Very much is expected of the NDS by Australians with disability and our associates. Failure to deliver a comprehensive and strategic high-level plan capable of engaging structural change across government, between governments, and in the private sector, will cause major disappointment and frustration.

The NDS discussion paper released for public consultation is superficial and limited. It does not generate confidence that the NDS is being constructed in a strategic way, or at the necessary level. The NDS must be subject to a much more ambitious and robust strategic development process than currently appears to be the case.

The NDS must be developed and positioned so as to achieve the following:

- The NDS must be a plan that has persons with disability at its centre. While other stakeholder groups, such as carers and service providers, have a legitimate interest in national disability policy, the NDS must give primacy to the interests of persons with disability. It therefore ought not to contain strategies and objectives focused on carers and service providers.
- The NDS must be a plan that is clearly conceptualised and positioned within Government as a progressive plan, rather than as self-terminating. It ought to be renewable every three years.
- The first NDS, in particular, must focus upon major 'upstream' objectives that engage all Commonwealth agencies, each level of Government (that is, State and Territory Governments, and local government), and the private sector. It should seek to activate

strategic development processes within and across portfolio areas, between layers of government, and within the private sector.

- **The NDS must be firmly based upon the rights and obligations set down in the CRPD. It must deal comprehensively with these rights and obligations, and it must penetrate to their full beneficial purpose.**
- **The NDS must be based in an explicit performance framework that includes:**
 - **Strategic policy objectives;**
 - **A strategic operational structure;**
 - **Operational implementation measures;**
 - **Operational objectives for each measure;**
 - **Explicit, measurable performance targets for each measure;**
 - **Performance indicators for each measure;**
 - **The assignment of a specific lead agency or sponsor and inter- or intra-governmental co-ordination mechanisms, if required;**
 - **An evaluation strategy based on a rigorous, transparent methodology.**
- **A 'National Office of Disability Policy Coordination' ought to be established within the Department of Prime Minister and Cabinet under high-level executive leadership. This Office ought to be vested with strategic operational responsibility for the NDS.**
- **Strategic operational responsibility for the NDS must not be situated in the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). FaHCSIA is a downstream agency and is poorly positioned to leverage change across Commonwealth agencies, or vertically in relation to the States and Territories. Situating operational responsibility for the NDS within FaHCSIA also risks marginalising the strategy to welfare measures.**
- **Many necessary NDS initiatives will require substantial commitment from Cabinet, the Coalition of Australian Governments, from Australian Ministerial councils, and from the Australian Council of Local Governments. It is therefore essential that the NDS have high-level political sponsorship. A Committee of Cabinet and portfolio Ministers ought to be convened to provide such high-level political leadership for the NDS. This 'Ministerial Council on the National Disability Strategy' would include at a minimum the Attorney-General, the Minister for Families, Community Services and Indigenous Affairs (perhaps delegated to the Parliamentary Secretary for Disabilities), the Minister for Health and Ageing, the Minister for Broadband, Communications, and the Digital Economy, the Minister for Education, Employment and Workplace Relations, and the Minister for Infrastructure, Transport, Regional Development and Local Government.**
- **The political leadership of the NDS ought to be activist and visible. The performance framework for the NDS ought to require agencies to develop and make available to the public, annual reports to the Ministerial Council. These reports ought to be examined in annual open session of the Ministerial Council. The Ministerial Council ought also to have the power to receive public submissions in relation to progress under the NDS.**

- **The Ministerial Council ought to be mirrored internally in the public sector with a high-level 'Public Sector Task Force on the National Disability Strategy.' This Task Force would function as a cross-agency coordination and accountability mechanism. It would have explicit responsibility for identifying and resolving interagency coordination issues. The Task Force would be comprised of senior executives from all key Commonwealth agencies.**
- **The NDS must be effectively informed and monitored by a high-level advisory structure. A 'National Disability Strategy Advisory Council' (Advisory Council) ought to be established for this purpose. The Advisory Council ought to comprise persons with disability and others with specific expertise in disability and human rights and structural change management. The Advisory Council would comprise no more than 10 persons, and its terms of reference would be specifically focused on implementation and monitoring of the NDS. The Advisory Council ought to meet on a quarterly basis during each iteration of the NDS. Half its members would be replaced at the transition point between plans to ensure both continuity and renewal.**
- **Senior executives of each Commonwealth agency ought to have performance indicators in relation to the NDS incorporated into their employment contracts. Payment of increments, bonuses and renewal of contracts ought, in part, depend upon the successful realisation of NDS goals and objectives within their areas of responsibility.**

The NDS must also incorporate the following initiatives:

- **A commitment that Australia will immediately accede to the Optional Protocol to the Convention on the Rights of Persons with Disabilities (if that has not already occurred prior to the NDS' release).**
- **A commitment that the CRPD will be declared an international instrument under s 47 of the *Human Rights and Equal Opportunity Commission Act, 1986* (Cth) which will allow the Australian Human Rights Commission to conduct inquiries and conciliate complaints based on its provisions (if that has not already occurred prior to the NDS' release).**
- **Additionally to the above, a major expansion of the jurisdiction and functions of the Australian Human Rights Commission to provide it with the power and capacity to effectively deal with complaints, and undertake policy and education work, in relation to all CRPD rights.**
- **A strategy to improve advocacy for persons with disability in Australia. This ought to be the subject of a specific budget bid for 2009, and would include at a minimum:**
 - **A very significant expansion of social advocacy organisations under the NDAP to ensure adequate 100% program coverage across Australia (this will require a multi-component system with some innovative models to reach particular population groups and locations).**

- As a sub-component of this strategy, funds should also be made available to expand the role of the DDLS network to ensure that it operates on a cross-disability, cross-jurisdiction basis.
 - A national representative body for disability advocacy organisations ought to be established and appropriately resourced. This body would be responsible for sector coordination, sector development, sector representation and liaison with government and the professional development of advocacy agency personnel. The establishment of the representative body ought to be the subject of a specific budget bid for 2009.
- A national disability complaints authority ought to be established, under legislation, to deal with complaints relating to disability services provided or funded by the Commonwealth. This would include Commonwealth funded or provided disability services, mental health services, carer support services, and disability aids and appliances. The authority ought to have royal commission-like compulsory powers, but it is essential that it is a specialist agency.
 - The Commonwealth's proposal for an Australian Bill of Rights ought to include measures for incorporating the CRPD into the Bill. Such measures should be part of the forthcoming public consultation process.
 - The Government must provide substantial funding to the disability advocacy and representative sector to provide it with the capacity to assist in the development of the CRPD base-line report which must be submitted to the United Nations CRPD treaty body by August 2010.

This position statement is endorsed by the following organisations and individuals:

Queensland Advocacy Incorporated

People with Disability Australia

Family Advocacy

Action for Community Living

Positive Life NSW

Villamanta Disability Rights Legal Service Inc

Sussex Street Community Law Service

Disability Australia Ltd

Disability Studies and Research Centre

People with Disabilities (WA)

Phillip French

People with Disabilities ACT Inc

Migrant Resource Centre North-West Region Inc.

Western Sydney Intellectual Disability Support Group

Disability Discrimination Legal Centre NSW

Darwin Community Legal Centre

Southwest Advocacy Association

Deafblind Association

Illawarra Citizen Advocacy

Bindi Inc

Aboriginal Disability Network

Australian Federation of Disability Organisations

NSW Council for Intellectual Disability

David Mo