



# Home and Living consultation

*National Disability Insurance Scheme*

**August 2021**

Please find following our submission to consultation on Home and Living Options in the National Disability Insurance Scheme (NDIS).

First Peoples Disability Network believes that there needs to be a more holistic look at home and living options for First People with disability that pays particular attention to the housing crisis in our community. There is no mention of the housing needs of Aboriginal and Torres Strait Islander people with disability in this consultation paper.

People with disability have the right to “live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community”<sup>1</sup> under the Convention on the Rights of Persons with Disabilities. Australia is a signatory to the CRPD and is obligated to realise the rights of people with disability under this convention, including through the implementation of Australia’s Disability Strategy, and the NDIS.

Aboriginal and Torres Strait Islander people with disability face significant barriers in accessing affordable and accessible housing, with those living in remote and rural areas experiencing the highest barriers. This needs to be urgently addressed at a community level, across the whole of government, that includes the NDIS, as part of any reform to the supports for individual people with disability with NDIS plans.

The NDIS cannot continue to operate in a silo when it comes to housing. Instead, the NDIA must work, alongside other agencies, departments and jurisdictions, to ensure that all First People have an adequate level of affordable and accessible housing.

Please do not hesitate to contact me if you would like any further information



Damian Griffis

CEO, First Peoples Disability Network

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<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-19-living-independently-and-being-included-in-the-community.html>

## Recommendations

- That the NDIS develop a home and living options consultation that specifically addresses the needs of First People with disability, in consultation with First People with disability.
- That the NDIS integrate the housing outcomes and targets of the National Agreement on Closing the Gap and Australia's Disability Strategy in developing all future housing policies and frameworks.
- That the separation of housing and supports is mandated in the development of this new policy
- That First people with disability and families are provided culturally appropriate independent advocacy and support to make housing choices
- That the NDIS progress their work on thin markets that includes how to ensure that First People with disability can access the NDIS supports they need, including SDA and SIL.
- That the NDIS clarify how the flexible and fixed budget categories will work absent the personalised budget tool reform.

## About us

FPDN is a national organisation of and for Australia's First Peoples with disability, their families and communities. Our organisation is governed by First Peoples with lived experience of disability.

We proactively engage with communities around Australia and advocate for the interests of First Peoples with disability in Australia and Internationally. We follow the human rights framework established by the United Nations Convention on the Rights of Persons with Disabilities, to which Australia is a signatory, and the United Nations Declaration on the Rights of Indigenous Peoples.

First Peoples with disability and their families are amongst the most seriously disadvantaged and disempowered members of the Australian community. We give voice to their needs and concerns and share their narratives of lived experience.

We work for the recognition, respect, protection and fulfilment of the human rights of First Peoples with disability and their families.

We work within a social model of disability, in which we understand 'disability' to be the result of barriers to our equal participation in the social and physical environment. These barriers can and must be dismantled. The social model stands in contrast to a medical model of disability, which focuses on diagnosis.

## Housing overview

First Peoples Disability Network (FPDN) has been raising the impact of a lack of affordable and accessible housing for many years. In our 2007 consultation report *Telling It Like It is*<sup>2</sup>, Aboriginal and Torres Strait Islander people with disability said that “mainstream and Aboriginal housing authorities do not prioritise the availability of accessible housing in regional and remote areas particularly.”

In addition, the *Telling It Like It Is* consultations found that group homes were not working for First People with disability.

“Concerns were expressed that the model was restrictive in terms of Aboriginal culture. Aboriginal people with disability living in supported accommodation are often culturally isolated. People are not supported to participate in Aboriginal community events, nor are staff supported to develop culturally competent skills to facilitate this.

- The physical location of most accommodation services is typically a long distance from Aboriginal communities. Family members and kinship networks raised concerns that distances would prevent them from regular contact with the Aboriginal person with disability that uses the service.
- People expressed fear that living in government owned or run accommodation, away from their family and country, was akin to the historical removal of Aboriginal people from their communities.
- Important cultural features are not included in the design of many accommodation services, such as shared common areas – indoor and outdoor.”<sup>3</sup>

The report recommended that there be “wide consultation with Aboriginal people with disability on the most culturally appropriate way to deliver accommodation and related support services.” This recommendation was made in 2007, and in 2021, there continues to be the need for wide consultation with Aboriginal and Torres Strait Islander people with disability about housing options.

In 2017, the Australian Housing and Urban Research Institute (AHURI) 2017 report *Housing and Indigenous disability: lived experiences of housing and community infrastructure*<sup>4</sup> found that the “majority of houses examined for this study did not meet accessibility and visitability requirements for residents and guests” and that had a significant impact on the wellbeing, health and disability of Aboriginal and Torres Strait Islander people with disability.

This AHURI research “encountered people separated from their family and country as a result of their disability; people who lacked basic amenities such as a place to cook or sleep; people who were trapped in their houses because of the failure of an agency to complete simple house modifications or make residents aware of the range and types of

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<sup>2</sup> Telling It Like It Is Report, Aboriginal Disability Network, 2007, <https://fpdn.org.au/wp-content/uploads/2016/04/tellingitlikeitis.pdf>

<sup>3</sup> As above

<sup>4</sup> Grant, E., Zillante, G., Srivastava, A., Tually, S. and Chong, A. (2017) Lived experiences of housing and community infrastructure among Indigenous people with disability, AHURI Final Report No. 283, Australian Housing and Urban Research Institute, Melbourne, <http://www.ahuri.edu.au/research/final-reports/283>, doi:10.18408/ahuri-3103001

modifications available and the process for accessing them; and people whose housing circumstances did not, and could not, meet their health or disability needs.”<sup>5</sup>

The National Agreement on Closing the Gap<sup>6</sup> has a target that by 2031, 88 percent of Aboriginal and Torres Strait Islander people will be living in appropriately sized (not overcrowded) housing. This target will be reported on by disability status, but does not look at issues about the accessibility of housing.

The previous National Disability Strategy<sup>7</sup> has as Policy Direction Three that there will be “improved provision of accessible and well designed housing with choice for people with disability about where they live.” However, this does not recognise the specific housing needs of Aboriginal and Torres Strait Islander people with disability.

Neither of these key policy instruments recognises the specific, intersectional housing needs of First People with disability. This lack of intersectionality can lead to the erasure of the policy needs of First People with disability in other policy material, such as in this consultation paper.

The NDIS has a key role in working across governments and jurisdictions to coordinate and support intersectional responses to the housing crisis for First People with disability, in collaboration with First People with disability. It is not good enough for the NDIS to say that they will not “look at what actions may be needed by others” in this consultation paper. The needs of First People with disability require the NDIS to do exactly that.

**Recommendation:** That the NDIS develop a home and living options consultation that specifically addresses the needs of First People with disability, in consultation with First People with disability.

**Recommendation:** That the NDIS integrate the housing outcomes and targets of the National Agreement on Closing the Gap and Australia’s Disability Strategy in developing all future housing policies and frameworks.

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<sup>5</sup> Grant, E., Zillante, G., Srivastava, A., Tually, S. and Chong, A. (2017) Lived experiences of housing and community infrastructure among Indigenous people with disability, AHURI Final Report No. 283, Australian Housing and Urban Research Institute, Melbourne, <http://www.ahuri.edu.au/research/final-reports/283>, doi:10.18408/ahuri-3103001

<sup>6</sup> <https://www.closingthegap.gov.au/national-agreement>

<sup>7</sup>

<https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/national-disability-strategy-2010-2020>

## Housing and the NDIS

The Home and Living consultation paper needs much stronger attention to the overdue need to separate the provision of housing and supports for people with disability living in group homes. FPDN welcomes the commitment in this consultation paper that the NDIS will “no longer financially support institutional or large group homes”, however, we believe that much more work needs to be done before the rights of people with disability are upheld.

The consultation paper does not outline the specific need for independent advocacy and support for people with disability and families to explore housing options. Instead, it suggests that existing housing providers assist people with disability and families to discuss housing options. As per our submission to the supported decision making framework, FPDN remains concerned about how the NDIS is implementing conflict of interest management in relation to disability support providers. This is crucial in the area of housing, and the NDIS needs to make explicit their regulatory role around these conflicts of interest. The same disability support provider cannot also be providing support coordination, personal support and other supports, as well as housing.

**Recommendation:** That the separation of housing and supports is mandated in the development of this new policy

**Recommendation:** That First people with disability and families are provided culturally appropriate independent advocacy and support to make housing choices

## Thin markets

The consultation paper raises the NDIA’s role in market stewardship, particularly in thin markets, and says that the NDIA will “need to influence, support and shape the market to respond to our new approach”.

The Disability Council of NSW, in their submission to the NDIS Joint Standing Committee inquiry on supported independent living (SIL) said they were “concerned that the NDIS may not be doing enough to service the market for SIL in rural and regional areas, where lower population densities may make it more difficult to viably provide SIL under the standard NDIS market conditions.”<sup>8</sup> At the related public hearing, the Disability Council talked of Aboriginal people with disability being forced to move far from their homelands to find a SIL place.<sup>9</sup>

The Northern Territory Office of the Public Guardian told the same committee hearing that the “lack of flexible housing options and appropriate support services can result in a person being placed in a compromised living situation, homeless or remaining in hospital for a longer period than medically required. The availability of suitable housing has stalled the provision of support for some people with a disability, especially those who require modified housing due to their disability. The Northern Territory does not have any SIL services outside of the major regional

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<sup>8</sup> Disability Council of NSW, Submission 3, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/National\\_Disability\\_Insurance\\_Scheme/Independentliving/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/Independentliving/Submissions)

<sup>9</sup> [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/National\\_Disability\\_Insurance\\_Scheme/Independentliving/Report](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/Independentliving/Report)

centres and the market stewardship to get this happening is not happening. Getting SIL services and providers in remote communities still needs to be realised.”<sup>10</sup>

The NDIS Joint Standing Committee SIL inquiry recommended that the NDIA “actively works to address thin markets, and ensures that work to address thin markets in regional, rural and remote areas captures both Supported Independent Living and Specialist Disability Accommodation.” It is unclear what the status of the NDIS Thin Markets project<sup>11</sup> or trials are, nor if they include this issue of the provision of housing in remote and very rural areas for First Peoples with disability. FPDN urges the NDIA to progress this work.

Research from the Summer Foundation<sup>12</sup> found there were barriers to implementing specialist disability accommodation in rural and remote areas, particularly:

- Limited workforce
- Unknown demand
- Financial risk
- Market coordination

The Queensland Productivity Commission<sup>13</sup> has made a draft finding that “Queensland’s market for specialist disability accommodation (SDA) remains immature. There is evidence that:

- access to SDA plans is low relative to projected participation and below that of other states
- the overall supply of SDA in Queensland is below projected levels, and below that of other states
- many people with disability are housed in inappropriate accommodation, including aged care and hospitals
- there are imbalances in the supply and demand of SDA across regions, including no SDA in Outback Queensland and no robust housing in most regions.

Compared to other states and territories, Queensland also has the lowest proportion of supported independent living supports relative to expected full scheme participation. The market for SDA is inherently riskier than other types of housing. The lack of market information about supply of and participant demand for SDA, and difficulties in matching tenants in SDA are impeding investment.”

They have also found that the NDIS needs to consider alternative commissioning models for Aboriginal and Torres Strait Islander people with disability living in remote and very rural areas, in conjunction with those communities. These points need consideration as part of the development of home and living options for the NDIS.

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<sup>10</sup> Northern Territory Office of the Public Guardian, submission to the NDIS Joint Standing Committee inquiry into Supported Independent Living, Submission 38  
[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/National\\_Disability\\_Insurance\\_Scheme/IndependentLiving/Submissions](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/IndependentLiving/Submissions)

<sup>11</sup> <https://engage.dss.gov.au/ndis-thin-markets-project/>

<sup>12</sup> SDA in thin markets, June 2021, Summer Foundation.  
<https://www.summerfoundation.org.au/wp-content/uploads/2021/06/SDA-in-Thin-Markets-JUNE-2021-web.pdf>

<sup>13</sup> Queensland Productivity Commission, Inquiry into the National Disability Insurance Scheme (NDIS) market in Queensland,  
<https://www.qpc.qld.gov.au/inquiries/ndis/>

Given the existing barriers to accessing SIL and SDA for First Peoples with disability, it is vital that the NDIA take on active market regulation and management to ensure that First People with disability can access home and living options funding in their NDIS plans.

**Recommendation:** That the NDIS progress their work on thin markets that includes how to ensure that First People with disability can access the NDIS supports they need, including SDA and SIL.

## Additional matters

With the personalised budget tool (PBT) policy material now listed in the archived policy section of the NDIS website, there needs to be clarification about how ILO supports will be allocated as this change to the budgeting process appears to be defunct.

The consultation paper outlines the planning reform to the funding model, including the introduction of fixed and flexible funding. Fixed funding is marked as being for specialist disability accommodation, high cost assistive technology or home modifications. With the PBT not going ahead, it is unclear how funding will be allocated to these items, and how flexible choices about spending support allocations will be.

**Recommendation:** That the NDIS clarify how the flexible and fixed budget categories will work absent the personalised budget tool reform.