

First Peoples Disability Network: Supplementary Submission

National Disability Insurance Scheme Amendment Bill 2024

Senate Standing Committees on Community Affairs





First Peoples
Disability Network

12 July 2024

Committee Secretary
Senate Standing Committees on Community Affairs
Department of the Senate, Parliament House
Canberra ACT 2600

Dear Secretary,

Supplementary Submission: National Disability Insurance Scheme Amendment Bill 2024

This supplementary submission reflects the position of the First Peoples Disability Network ('FPDN') on the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024* (the 'Bill'), specifically in relation to the developments which have occurred since the Bill was referred back to the Senate Standing Committee on Community Affairs ('the Committee) on 27 June 2024.

FPDN's prior submission to the Senate Standing Committee (No.153)

FPDN does not consider that the Government amendments (proposed in Amendment Sheet PA112 revised) adequately address any of the concerns from our prior submission. In effect, all of those concerns continue to exist.

Critical need for the Government to adopt proposed amendments

FPDN's position on proposed amendments by Senator Thorpe

FPDN fully supports the proposed amendments to the Bill found at Amendment Sheets 2671, 2672, 2673 and 2674 (collectively 'the Amendments'), as they represent the amendments FPDN has been advocating for, in addition to eliminating the uncertainty for people with disability leaving incarceration. The Amendments (summarized and detailed below) amplify the rights and needs of First Nations people with disability.

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The Amendments in detail:

- Sheet 2671 - These amendments require that, in line with Recommendation 9.6 of the Disability Royal Commission, the NDIA Board must always include at least one member who is an Aboriginal person or Torres Strait Islander person with lived experience of disability. As per FPDN's prior recommendations (No.2), the Committee should support these amendments.
- Sheet 2672 - These amendments ensure that, in line with Recommendation 9.7 of the Disability Royal Commission, the legislation now refers to social, cultural and economic participation. As per FPDN's prior recommendations (No.2), the Committee should support these amendments.
- Sheet 2673 - These amendments require that, before making a legislative instrument or NDIS Rule that is likely to affect Aboriginal or Torres Strait Islander participants, the Minister must: Consider the social and emotional wellbeing of these participants, and the value and benefits of these participants accessing NDIS supports on country; and consult with and consider the views expressed by the First Peoples Disability Network on the legislative instrument or NDIS Rule. As per FPDN's prior recommendations (No.7-8), the Committee should support these amendments.
- 2674 – These amendments change the timeframes in which the CEO must consider NDIS access requests for a prospective participant who will be released from custody within 30 days (including where the CEO has made a request for information or a report) by 5 business days. The Committee should support these amendments. Given the severe overrepresentation of First Nations persons within custodial settings, it is absolutely vital that those with disability are not pre-emptively denied the opportunities of rehabilitation and reintegration, via a lack of NDIS supports upon release.

It should be noted that FPDN also supports amendment sheet 2670, in principle. This amendment ensures that a support is taken to be appropriately funded or provided through the National Disability Insurance Scheme for participants (including prospective participants) who are in a custodial setting or transitioning out of a custodial setting and into the community, where the Minister is satisfied that the support is appropriately provided through the NDIS. The Committee should note that the current failures to provide access to people with disability to the appropriate supports in custodial settings,





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including the vastly disproportionate amount of First Nations persons with disability we believe amounts to a human rights violation. However, we acknowledge that the amendment as proposed could be considered an expansion of the Scheme and in the current fiscal environment is unlikely to gain support.

Further submission made by the National Coordination Function

FPDN is a member of the National Coordination Function (NCF) and has endorsed the further submission which has been made by the NCF on behalf of this broad collective of Disability Rights Organisations (DROs). The further submission contains detailed recommendations for crucial aspects of the Bill which are yet to be adequately addressed by Government.

In particular, the CEO powers which are contained in sections 30, 30A and 36 must be accompanied by meaningful restrictions upon their usage, in order to ensure that participants are not obligated to comply with requests for information that are unduly burdensome, whilst knowing that a failure to do so within a mere 90 days will result in the revocation of their participant status.

At a minimum, amendments must be to ensure that requests cannot be made where it would be unduly burdensome for a person to respond to, and that any such requests invalidate a subsequent decision to revoke a person's status as a participant.

Conclusion

FPDN thanks the Senate Standing Committees on Community Affairs for the opportunity to make another submission. FPDN welcomes discussion on any aspects of this supplementary submission.

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