

## Submission to the Department of Social Services

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### Consultation on the draft lists of NDIS supports

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23<sup>rd</sup> August 2024

The Aboriginal Health Council of Western Australia (AHCWA) welcomes the opportunity to provide feedback to the Department of Social Services on the draft list of the National Disability Insurance Scheme (NDIS) supports (draft list). This submission draws upon the collective knowledge and experiences of AHCWA's Member Services.

AHCWA is the peak body for 23 Aboriginal Community Controlled Health Services (ACCHS) in Western Australia (WA). WA ACCHS are located across geographically diverse metropolitan, regional and remote locations. They deliver the most effective model of comprehensive primary health care and whole-of-person holistic supports for Aboriginal people.<sup>1</sup> Furthermore, they are in a unique position to identify and respond to the local, cultural and health needs of Aboriginal people and their communities. AHCWA exists to support and advocate on behalf of its 23 Member ACCHS.

The National Disability Insurance Agency's (NDIA) *Participant Service Charter* is founded on five key principles, committing to services that are 'transparent, responsive, respectful, empowering, and connected'.<sup>2</sup> To fully meet these principles within Aboriginal communities, it is imperative that culture is at the centre of service delivery. Connection extends beyond community to include a deep connection to Country. Respect involves honouring cultural identity and practices. Responsiveness must address the specific needs of the person with a disability, including supporting cultural activities. Empowerment should involve listening to and supporting the individual and family's aspirations for a good life, which includes a cultural life.

The importance of culture cannot be understated as it is at the heart of Aboriginal people's way of life and integral to the ACCHS Model of Care. This model embraces a holistic approach that incorporates culture, Country, family, community, emotional and physical well-being, language, and spirituality into its service delivery.<sup>3</sup> National policy documents actively recognise that culture is a protective factor for Aboriginal people's health and experience of healthcare across the lifespan.<sup>4</sup> The positive impact culture has on health is not only evident in Australian First Nations communities, but is also supported by international literature in other First Nations populations including

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<sup>1</sup> Throughout this submission, AHCWA uses the term 'Aboriginal' to respectfully refer to all Aboriginal and Torres Strait Islander people across WA

<sup>2</sup> NDIS. (2022). *Service Charter*, 1, <https://www.ndis.gov.au/about-us/policies/service-charter>

<sup>3</sup> Aboriginal Health Council of Western Australia. (2024). *About us*. <https://www.ahcwa.org.au/about-us/>

<sup>4</sup> Australian Government Department of Health. (2021). *National Aboriginal and Torres Strait Islander Health Plan 2021–2031*, 6. <https://www.health.gov.au/resources/publications/national-aboriginal-and-torres-strait-islander-health-plan-2021-2031?language=en>

Canada, United States of America and New Zealand. This literature highlights that cultural determinants of health, such as connection to Country, language, self-determination, kinship, and cultural expression, are positively associated with enhanced physical, social, and emotional well-being.<sup>5</sup> Furthermore, in regards to service delivery it has been shown that there are better social and emotional wellbeing outcomes when culturally based interventions are in place,<sup>6</sup> and this is no different for people with a disability. A clear example of how these determinants impact health is the reduced opportunities for individuals with disabilities to fully participate in society.<sup>7</sup> Therefore it is crucial that the NDIS is funded to support people with disabilities in all aspects of society including cultural participation.

The significance of culture for Aboriginal people has also previously been acknowledged by the Department of Social Services in the *Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability*.<sup>8</sup> The plan made clear that culture should be at the centre of disability policy reform and program development. It notes that cultural context is required for the successful delivery of support services for Aboriginal people with disabilities. AHCWA strongly believes that service design and delivery needs to fervently elevate access to culturally significant supports for Aboriginal people with a disability as a priority to improve the outcomes of the NDIS. There has been a long history of the disability's sector advocacy and formal government processes to understand the importance of delivering a culturally appropriate and safe NDIS for all Australians. More than a decade ago, the *2010-2020 National Disability Strategy*<sup>9</sup> was developed and committed to by the Commonwealth, State and Territory governments. One of the priority areas identified in this strategy was a disability system that supports people in 'participation in the economic, social and cultural life of the community.'<sup>10</sup>

In 2023, the *Commonwealth Closing the Gap Implementation Plan* announced that the Department of Social Services has a significant opportunity to lead the Commonwealth in fulfilling its 'obligations to embed disability as a cross-cutting outcome under the National Agreement...which holds all Ministers responsible for improving outcomes for all Australians with disability, ensuring no-one is left behind.'<sup>11</sup> As it is the responsibility of the Australian government to administer the *NDIS Act 2013 (Cth) (The NDIS Act)*, and ensure its accessibility and sustainability for future generations, AHCWA reinforces that tangible changes are needed in the context of redefining NDIS support and funding to see benefit on the ground. As this consultation on the draft list is open, the government continues to pursue administrative amendments to the NDIS (Getting the NDIS Back on Track No.1) Bill 2024, particularly in terms of governance and accountability. AHCWA hopes to see these changes only improve leveraging the

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<sup>5</sup> Bourke, S., Wright, A., Guthrie, J., Russell, L., Dunbar, T., Lovett, R. (2018). Evidence review of Indigenous culture for health and wellbeing. *International Journal of Health, Wellness, and Society* 8(4), 11-27. doi:10.18848/2156-8960/CGP/v08i04/11-27.

<sup>6</sup> Ibid.

<sup>7</sup> Australian Institute of Health and Welfare. (2024). *Health of people with disability*. <https://www.aihw.gov.au/reports/australias-health/health-of-people-with-disability>.

<sup>8</sup> Commonwealth of Australia, Department of Social Services. (2017). *Australian Government Plan to Improve Outcomes for Aboriginal and Torres Strait Islander People with Disability*.

[https://www.dss.gov.au/sites/default/files/documents/10\\_2017/dss0001\\_atSI\\_disability\\_plan\\_accessible\\_v1.pdf](https://www.dss.gov.au/sites/default/files/documents/10_2017/dss0001_atSI_disability_plan_accessible_v1.pdf)

<sup>9</sup> Commonwealth of Australia. (2011). *2010-2020 National Disability Strategy*.

[https://www.dss.gov.au/sites/default/files/documents/05\\_2012/national\\_disability\\_strategy\\_2010\\_2020.pdf](https://www.dss.gov.au/sites/default/files/documents/05_2012/national_disability_strategy_2010_2020.pdf)

<sup>10</sup> Ibid., 48.

<sup>11</sup> Australian Government National Indigenous Australians Agency. (2023). *Commonwealth Closing the Gap Implementation Plan*, 1, <https://www.niaa.gov.au/2023-commonwealth-closing-gap-implementation-plan/cross-cutting-areas/disability>.

efforts of both States/Territories and the Commonwealth, with the purpose to improve the lives of people with disability. This would include enabling Aboriginal people with disabilities to participate in cultural life and supporting their Return to Country as described in the recommendation made in the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission)*.<sup>12</sup>

AHCWA urges the government to honour the commitments made in the *Australian Government Response to the Disability Royal Commission*.<sup>13</sup> Namely, when determining what is included under NDIS supports, urgent attention should be given to Recommendations 9.7 and 9.8, which advocate for the participation of Aboriginal people in cultural life and support to Return to Country.

AHCWA cannot see a satiating inclusion of these recommendations in the draft list supports out for consultation. Furthermore, it is essential that the draft list reflect this commitment by using language that centres on a person's identity, rather than being framed by a western colonial viewpoint. This is specifically related to the draft's phrasing when describing what supports should be funded under the NDIS. For instance, where it states 'Participation in Community, Social and Civic Activities',<sup>14</sup> it should explicitly include support for participation in cultural life as this seems to be the most likely support category to include specific funded cultural activities. Without this inclusion, it is AHCWA's view that many Aboriginal people with disabilities may be denied access to these activities that are vital to Aboriginal people's identity and sense of belonging.

As per the consultation discussion paper, the purpose of the list is to provide clarity to the types of supports funded by the NDIS. AHCWA is not supportive of the inadvertent funding exclusion of Recommendations 9.7 and 9.8 that will be discussed below. Both of these recommendations were accepted in principle and state:

### **Recommendation 9.7 Participation in cultural life**

Sections 3, 4 and 17A of the National Disability Insurance Scheme Act 2013 (Cth) should be amended to refer to participation in cultural life, in addition to participation in social and economic life.<sup>15</sup>

The Australian Government supports in principle the development of mechanisms to support participation in cultural life. The Government is of the view that changes to NDIS Operational Guidance could achieve the goal of this recommendation through recognition of social and emotional wellbeing models of support which recognise the importance

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<sup>12</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Final Report Executive Summary, Our vision for an inclusive Australia and Recommendations*. <https://disability.royalcommission.gov.au/system/files/2023-11/Final%20report%20-%20Executive%20Summary%2C%20Our%20vision%20for%20an%20inclusive%20Australia%20and%20Recommendations.pdf>.

<sup>13</sup> Australian Government. (July, 2024). *Australian Government Response to the Disability Royal Commission*. ISBN: 978-1-921380-87-7 (Online).

<sup>14</sup> Department of Social Services. (2024). *Draft list of NDIS Support*. <https://engage.dss.gov.au/consultation-on-draft-lists-of-ndis-supports/draft-list-of-ndis-support/>.

<sup>15</sup> Australian Government. (July, 2024). *Australian Government Response to the Disability Royal Commission*, 190. ISBN: 978-1-921380-87-7 (Online).

of cultural ways of knowing, being and doing. The Government is committed to ensuring that First Nations participants are supported within the NDIS, with particular focus on initiatives detailed in recommendations 9.8 to 9.12.<sup>16</sup>

The Australian Government has also accepted in principle Recommendation 9.8 of the Disability Royal Commission,<sup>17</sup> which supports Aboriginal people in the Return to Country and the recognition of cultural supports:

**Recommendation 9.8 Return to Country**

In consultation with the First Nations Advisory Council, the National Disability Insurance Agency (NDIA) should:

- create a new line item in the Pricing Arrangements recognising cultural supports and return to Country trips
- develop guidelines for NDIA staff on including cultural supports and return to Country trips as reasonable and necessary supports in plans
- educate First Nations participants about the availability of cultural supports and return to Country trips included in their plans.<sup>18</sup>

AHCWA implores the Department of Social Services to include changes in draft list that encompasses Recommendation 9.8. The importance of including Return to Country is based on widely recognised evidence that Aboriginal people who do not maintain a connection to Country have poorer health and well-being outcomes.<sup>19</sup> Given the current distribution of disability supports across Australia, many Aboriginal people with disabilities living in rural and remote areas face a difficult choice: stay on Country with little to no disability support, or leave their Country to seek services in metropolitan areas.<sup>20</sup> Thereby, the need to access services forces many Aboriginal people to leave their communities and as a result, they require rightful supports to remain connected to Country in any way possible.

It is important to note that the inclusion of cultural support and cultural life in the list of funded NDIS supports, will not only assist Aboriginal people, but it will benefit Australia's diverse multicultural society. The universal need of a cultural life is illustrated in the *Convention on the Rights of Persons with Disabilities*,<sup>21</sup> of which Australia is one of the original signatories, whereby all individuals with disabilities have the same right to participate in cultural life as those without disabilities. The Convention further affirms that 'Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity.'<sup>22</sup> Therefore, the need for cultural considerations to be made when funding supports for

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<sup>16</sup> Australian Government. (July, 2024). *Australian Government Response to the Disability Royal Commission*, 190. ISBN: 978-1-921380-87-7 (Online).

<sup>17</sup> Australian Government. (July, 2024). *Australian Government Response to the Disability Royal Commission*. ISBN: 978-1-921380-87-7 (Online).

<sup>18</sup> *Ibid.*, 191.

<sup>19</sup> Dew A, Barton R, Gilroy J, et al. (2020). Importance of Land, family and culture for a good life: Remote Aboriginal people with disability and carers. *Aust J Soc Issues*.55: 418–438. doi: 10.1002/ajs4.96. <https://onlinelibrary.wiley.com/doi/full/10.1002/ajs4.96> .

<sup>20</sup> *Ibid.*

<sup>21</sup> United Nations. (2006). *Convention on the Rights of Persons with Disabilities and Optional Protocol*, <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf>

<sup>22</sup>*Ibid.*, 23,

people with disabilities, is internationally recognised. The draft list is about empowerment and self-determination, giving greater autonomy and choice for people with disability. The NDIS needs to set the standard for a world-class, culturally informed disability scheme that recognises the strengths of people's abilities. This can be done by authentic co-design to ensure it is fit for purpose for all NDIS participants and their families.

In conclusion, AHCWA strongly urges the Department of Social Services to make changes to the draft list that reflect a genuine commitment to cultural inclusion for Aboriginal people with disabilities. Culture is central to the health, identity, and well-being of Aboriginal people. The recommendations made by the Disability Royal Commission<sup>23</sup> should not be dismissed as peripheral matters. By making sure cultural considerations are included within the NDIS funding list, the NDIS will start to fulfil its promise to be a scheme that truly respects and empowers all Australians, leaving no one behind.

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<sup>23</sup> Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. (2023). *Final Report Executive Summary, Our vision for an inclusive Australia and Recommendations*.  
[https://disability.royalcommission.gov.au/system/files/2023-11/Final%20report%20-%20Executive%20Summary%2C%20Our%20vision%20for%20an%20inclusive%20Australia%20and%20Recommendations.p  
df](https://disability.royalcommission.gov.au/system/files/2023-11/Final%20report%20-%20Executive%20Summary%2C%20Our%20vision%20for%20an%20inclusive%20Australia%20and%20Recommendations.pdf)