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Hon Stuart Robert MP
Minister for the National Disability Insurance Scheme
PO Box 6022
House of Representatives
Parliament House
CANBERRA ACT 2600
Via Email: Stuart.Robert.MP@aph.gov.au

12 January 2021

Dear Minister Robert,

I write to you as the CEO of Women With Disabilities Australia (WWDA) in response to the current NDIS consultation papers on the proposed changes to the National Disability Insurance Scheme (NDIS) Act, in particular, those concerning the introduction of Independent Assessments for NDIS participants.

We thank you for the opportunity to provide this response to the NDIS Consultation Papers. This letter is informed by feedback from our extensive membership.

As you may be aware, WWDA is the only national Disabled People's Organisation (DPO)¹ for women, girls, feminine identifying and non-binary people with all types of disability in Australia. WWDA is managed and run by women with disability and represents more than two million disabled women and girls in Australia. WWDA has affiliate organisations and networks of women with disability in most States and Territories of Australia and is recognised domestically and internationally for our leadership in advancing the rights and freedoms of women and girls with disability.

While we understand and welcome the need for systemic reforms to the NDIS that improve and streamline the ability of people with disability to access the scheme and the supports they receive,

¹ DPOs are organisations made up and governed by people with disability for people with disability.

we hold significant concerns about efficacy of the proposed changes and how they will address the very diverse and complex needs of women and girls with disability.

Across Australia, women and girls already make up less than 37% of all NDIS participants, and less than 30% of participants under 14 years of age. WWDA is very concerned that many of the new changes to the NDIS, including the introduction of Independent Assessments, is a gender-blind move that not only ignores the gender inequality inherent in the NDIS, but also threatens to exacerbate the discrepancy in participation rates.

Under the planned changes, the consultation papers stipulate that from 2021, all future NDIS participants will be required to undergo a mandatory independent assessment of their functional capacity using standardised assessment mechanisms in order to access the scheme. Existing participants will also be progressively required to undergo the same assessment process before they receive their next NDIS plan and funds. Furthermore, the requirements under the reformed National Disability Insurance Scheme (NDIS) Act stipulate that the person undertaking the independent assessment be a 'suitably qualified allied health professional' who does not have any prior relationship with, or know the participant.²

While the consultation papers state that the changes aim to make decisions about participant funding fairer and more consistent for participants, WWDA is extremely concerned that basing decisions on a standardised assessment conducted by an entirely impartial assessor who does not know the individual will likely result an incorrect evaluation of individual's capacity, and in turn, a denial of supports that are needed.

In addition to hundreds of case studies from concerned members, our concerns about the efficacy of independent assessments are supported by peer reviewed research that shows how invisible and complex disabilities can be misjudged or overlooked by unfamiliar assessors. One of the most common and telling instances of this occurs in women and girls with autism, who already have low participation rates in the NDIS compared to men and boys, despite Autism Spectrum Disorder (ASD) being the largest primary disability category in the NDIS.³ It is these gendered inequalities inherent in the NDIS that remain unaddressed by the proposal to implement mandatory independent assessments.

The reasons given for the implementation of the plan to use independent assessors reference two short pilots between November 2018 and March 2020, as well as recommendations from the 2019 review of the National Disability Insurance Scheme Act 2013 (the Tune Review), which indicated that the pilot resulted in 'more consistent decisions and more equitable plan outcomes for participants with similar characteristics.'⁴ However, these results include limited information of the impact of independent assessments on marginalised communities, such as Aboriginal and Torres Strait Islander people with disability, Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+), and Culturally and Linguistically Diverse (CaLD).

² National Disability Insurance Scheme (2020) Consultation paper: Access and Eligibility Policy with independent Assessments, National Disability Insurance Agency, p. 16

³ National Disability Insurance Scheme (2020) '[Outcomes for participants with Autism Spectrum Disorder.](#)'

⁴ Tune, D (2019) [Review of the National Disability Insurance Scheme Act 2013: Removing Red Tape and Implementing the NDIS Participant Service Grantee](#), Department of Social Services, Australian Government, p. 65

This is particularly concerning given that the standardised assessment tools that are being mandated as part of the independent assessment process have not been identified as being a reliable method of assessing disability in culturally diverse communities.⁵

For a variety of reasons, the Tune Review identified that the implementation of independent assessments would be problematic for particular cohorts, and that measures should therefore be taken to ensure that the diversity of assessors is sufficient enough to mitigate concerns. Among other criteria, WWDA would interpret this recommendation to mean that individuals should be able to choose an assessor that matches their cultural identity and/or gender. For marginalised cohorts such as Aboriginal and Torres Strait Islander people, CaLD communities and women and girls with disability, this choice is paramount to their participation.

Across Australia, it is well known that women and girls with disability experience significantly higher rates of violence than men with disability or people without disability and are particularly susceptible to specific forms of violence, including violence and abuse perpetrated by healthcare practitioners, carers and support people.⁶ Forcing individuals who have been impacted by these types of violence to undergo an assessment by someone unknown to them may produce invalid assessment results, but also poses a very real risk of causing psychological harm.

WWDA acknowledges that these concerns have been briefly addressed in the Access and Eligibility consultation paper in section 3.7 'Exemptions from independent assessments,' where it states that 'The delegate may decide that an applicant does not need to complete an independent assessment where there is a risk to safety or an assessment is deemed inaccessible or invalid.'⁷ However, it is concerning to our organisation that it is not the individual being assessed who will be empowered to make these decisions; especially in cases where individual women have already been denied agency by guardians, family members and professionals.

The danger of mandating independent assessments is further exacerbated by the requirement that additional people take part in the assessment. As a Disabled People's Organisation (DPO), we strongly trust that people with disability are the best source of expertise on how their disability affects them and understand that the views of family members, carers, support workers, and guardians can often conflict with the reality of the disabled person's experiences.

Whilst the NDIS is framed by the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and aims to give more 'choice and control' to people with disability; it appears that the proposed changes are removing all choice and control from individuals on how information is provided to the NDIS about their disability.

For many current NDIS participants, access has only been obtained with the support of information and reports from long relationships, trusted practitioners, and in many cases, advocates. The needs of most people with disability cannot be 'assessed' and summarised by an unknown practitioner, in a mandated timeframe (up to 3hrs) using standardised assessments. As people with disability are extremely diverse, the options to provide evidence should reflect this, as well as recognise the complexity of understanding those with multiple, invisible or complex disabilities.

⁵ Stephens, A & Bohanna, I (2013) '[Why Indigenous Australians need a properly funded NDIS.](#)' The Conversation.

⁶ See e.g. Frohmader, C (2019) [The Status of Women and Girls with Disability in Australia: Position Paper to the Commission on the Status of Women \(CSW\) Twenty-Fifth Anniversary of The Fourth World Conference on Women and The Beijing Declaration And Platform For Action \(1995\)](#)

⁷ National Disability Insurance Scheme (2020) Consultation paper: Access and Eligibility Policy with independent Assessments, National Disability Insurance Agency, p. 21–22

Additionally, it must be recognised and acknowledged that many people with disability who live, occupy, and/or experience institutional, residential and service settings are regularly deprived of the information, education and skills to develop autonomy and agency, and are often taught and 'rewarded' for, unquestioning compliance. There is a very real risk that people with disability from these (often) lifelong environments, may therefore 'agree' with assessors' questions and outcomes, simply because they are eager to please. The power differential between the person with disability and the independent assessor must be recognised and factored into the assessment process.

To ensure the NDIS retains its own purpose of empowering people with disability to have more 'choice and control' in their lives, we respectfully urge the NDIA to:

1. Immediately cease the rollout of compulsory independent assessments as currently planned for 2021.
2. Undertake a robust, independent and transparent outcome evaluation of the current pilot of the new assessment process. This evaluation must be led by experts and co-designed with people with disability, their families and the organisations that represent them.
3. Undertake robust and transparent trials of rolling out optional independent assessments whilst also retaining individual's choice to opt for alternative approaches – such as asking their health professionals to provide evidence.
4. Once the trials and evaluations are complete, engage in a meaningful co-design process with people with disability, their families and the organisations that represent them to ensure a consistent, fair and representative approach to both access and planning for NDIS participants.

Additionally, we re-iterate our long-standing recommendation to the NDIA that the Agency act to develop an NDIS Gender Strategy, in consultation with women with disability and their representative organisations.

Thank you again for the opportunity to provide feedback on the NDIS Consultation Papers. Our organisation looks forward to continuing to collaborate with the NDIA.

Yours sincerely

A handwritten signature in black ink, appearing to read 'CF', followed by a long horizontal line that ends in a small hook.

Carolyn Frohmader
Executive Director

Finalist, 100 Women of Influence Awards 2015
Australian Human Rights Award (Individual) 2013
State Finalist Australian of the Year 2010
Inductee, Tasmanian Women's Honour Roll 2009
Australian Capital Territory Woman of the Year Award 2001

Cc: Mr Martin Hoffman, CEO, NDIA
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