

October 2022

**Disability Inclusion Bill 2022**

**Exposure Draft Submission  
Here**

Disability Act Review

Disability and Communities Branch

Department of Families, Fairness and Housing

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Dear Disability Act Review team,

Thank you for the opportunity to review the exposure draft of the *Disability Inclusion Bill 2022* and to prepare a submission on behalf of Wyndham City following consultation with various stakeholders with a passion to progress disability inclusion.

As a local government entity, Wyndham City has been mandated through the *Disability Act 2006* to develop and implement Disability Action Plans. This historical commitment and experience to improve disability accessibility and inclusion provides Council with a perspective to reflect upon what has worked well, what could be strengthened and whether the proposed *Disability Inclusion Bill* will fortify the public policy landscape to progress disability inclusion across all aspects of life for Victorians.

To inform this submission we refer to Wyndham City’s current *Accessibility Action Plan 2019-2022* and have consulted across the organisation with employees who are committed to improving access and inclusion for people living with disability, including employees with lived experience; engaged with members of WynAction (Council’s Disability Advisory Committee); and engaged with the Wyndham Disability Services Network.

If you would like to discuss any aspect of this submission please contact Tiffany Ledovski, Disability and Positive Ageing Planner via email at [tiffany.ledovski@wyndham.vic.gov.au](mailto:tiffany.ledovski@wyndham.vic.gov.au).

Regards,



Liana Thompson

DIRECTOR CITY LIFE

The support for the draft Disability Inclusion Bill and the introduction of a new Commissioner for Disability Inclusion is rooted in the *Wyndham City Accessibility Action Plan 2019-2022* (the Plan), with the vision:

*People with disability, their families and/or carers experience in all aspects of their daily lives the same dignity, respect and access to opportunities and services as everyone else.*

The Wyndham City goals articulated in the Plan are:

* 1. To ensure Wyndham City Council has a lens of access and inclusion of people with disability as a ‘business as usual approach’
  2. To improve the disability confidence of Wyndham City
  3. To improve Wyndham City’s engagement and participation of people with disability in the community
  4. To encourage contribution and leadership from community members with disability
  5. To support the transition to the National Disability Insurance Scheme (NDIS) in Wyndham.

A strong emergence of several themes developed in this submission in response to the questions posed in the Overview Paper:

* Resourcing requirements from the Victorian Government to support new responsibilities and reporting compliance – including funding for dedicated staff resources; internal capacity building through training, guidelines and templates;
* Leaning into the experience of Victorian local governments in the development of disability action plans to inform the Plan requirements, and support a bottom-up approach to implementing the new legislation with new defined entities, and creating consistency;
* Closing the loop between government and defined entities (including local advisory committees) to strengthen a collective approach with input from all stakeholders to inform state-wide process improvements for progress in disability inclusion;
* Clarity of the interface between the Disability Inclusion Bill and other State and Federal Legislation;
* A root cause of the local government resourcing issue is the funding diversion from the Victorian-wide Building Inclusive Communities program that ceased when the Victorian Government committed financial resources under agreement to fund the NDIS. The program previously saw dedicated staff across most Victorian local governments (Rural and Metro Access, and Deaf Access workers) funded by the Victorian Government. Since the program ceased, there is little consistency across local governments in terms of resourcing disability and inclusion focussed roles. The mandates of the proposed Bill will only increase responsibilities for Council that are not resourced to previous levels, even without consideration to new responsibilities and reporting requirements.

**Purpose, Defined entities and Definitions**

1. *Do you agree with creating a new principal Act for Victoria relating to disability inclusion – why or why not?*

A new principal Act for Victoria relating to disability inclusion is strongly supported. Legislation must be current with the social landscape to be effective, and policy and language continue to evolve around disability inclusion. The Bill is progressive and responsive to *r*ecognizing*that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others* as stated in the Convention on the Rights of Persons with Disabilities.

The proposed Bill is important to advance disability inclusion with collective impact across Victoria in a progressive way, with the voice of lived experience being embedded from the appointment of a Commissioner to the development of Action Plans by Defined Entities informed by people with disability. The proposal of a Commissioner to drive the process is also supported. The proposed Act is centred around disability inclusion and therefore will proactively advance equitable outcomes for people with disability in Victoria.

As a Council, the Disability Act 2006 already mandates Council to have a Disability Action Plan. The strength of the proposed Bill is the accountability of the Defined Entities to report on the impacts of the Plans. This is a gap under the current legislation, as the reporting requirements are not structured to measure collective impact across Victoria. Consistent frameworks, measures and shared data sets will result in a richer understanding of impacts across Victoria and highlight strengths and gaps in advancing disability inclusion.

1. *What are your thoughts on the purposes of the Bill and its focus on government and defined entities?*

The purposes of the Bill are supported. The proposed Bill sets government and defined entities that have public responsibilities and access to public funding to be accountable to lead the way in disability inclusion. Demonstrating success and sharing resources or initiatives that can be readily applied at relative scale can extend progress beyond those with reach of the Victorian Government.

With frameworks and outcome measures led by the Victorian Government, Local Governments and other community facing defined entities are in the prime position to work with local communities to define local priorities and opportunities to advance disability inclusion.

The current draft does not recognise a way to align or report on voluntary development of Disability Action Plans by organisations outside of Defined Entities. As a wonderful demonstration by organisations of disability inclusion as best practice (without being mandated under such legislation), there is a missed opportunity to acknowledge, celebrate and share learning and impacts with the bigger collective. This is not to suggest that same requirements for reporting would apply, but such organisations should have a voluntary opportunity to contribute to the progression of disability inclusion.

1. *Should any entities be included or excluded from the current scope? What should be added, changed or removed?*

Thinking about the population in the municipality of Wyndham, the defined entities cover a good scope of organisations who can have a collective impact. What is missing for the Wyndham community is the inclusion of the local hospital that provides services beyond the municipality. Werribee Mercy Hospital is located in Wyndham and is understood not to be included in the defined entities (nor on the list of defined entities covered by the Gender Equality Act that has set the precedent for the list of defined entities). The hospital is not a private hospital and therefore a review of the defined entities is required to understand whether there are other large entities that should fit the definition of defined entities that could have ‘slipped through’.

1. *What do you think about the definitions proposed in the Bill? Do any definitions need to be added, changed or removed?*

The definitions included in the Bill are an important reflection in the evolution and application of language that must maintain currency for the legislation to have the intended impact.

Feedback on definitions to be considered:

* Disability – the definition should align with the federal *Disability Discrimination Act* as federal legislation over rides State legislation, as the current different provides a narrower definition of disability.
* Ableism – should more explicitly state that ableism is a form of discrimination.
* Intersectionality – a definition that uses more simplistic language, so it is easier to understand. The definition is confusing if the term is not already understood.
* Disability inclusion – definition does not include equity, as equity can sometimes be an important step along the path to equality.
* Universal design – the definition seems to address the built and environmental design, yet it can apply to the design of intangibles engagement, policies and programs.
* The inclusion of commonly used acronyms would be useful.

**Objectives of the Bill**

1. *What do you think of the proposed objectives? Do any need to be changed or removed? Would you add any other objectives?*

The proposed objectives are supported as stated in the proposed Bill.

With focus on the objective of *Coordinate and integrate universal services and supports with NDIS services and supports,* there is not enough detail on how this would work for Defined Entities. NDIS services are not within the sphere of influence that Council (and other Defined Entities) has to be held to account for such an objective.

*Create a framework for whole of government and defined entities accountability and transparency in progress made in advancing disability inclusion in Victoria.*

The framework will require clarity on how the Victorian Government will support the defined entities. The framework will be expected to set out responsibilities and formalise engagement frameworks between defined entities and State Government. It would be expected that the frameworks would be provided with reasonable transition time and development opportunities for defined entities to build internal capacity with the introduction of the legislation and the frameworks.

**Inclusion Principles**

1. *Are these the right principles to promote and advance disability inclusion in Victoria? Do any need to be changed or removed? Would you add any other objectives?*

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| **Principle** | **Comments** |
| *Impairment is an expected part of human diversity.* | Mixed responses to this principle – some have supported it, others would like to see the intent retained and wording improved around inherent value of people with disability to society. |
| *People with disability have historically experienced segregation, discrimination and disadvantage because of ableism and other barriers to disability inclusion.* | This reads more as a statement than a principle. Perhaps the principle should be to *end the historical segregation, discrimination and disadvantage people with disability have experienced because of ableism and other barriers to disability inclusion,* or a more simplistic suggestion of *Addressing discrimination and disadvantage*. |
| *The right of Aboriginal people with disability in Victoria to self-determination and cultural safety should be recognised and supported. This includes upholding cultural rights and sustaining connections with family, community, culture and Country.* | Absolutely support this principle, perhaps include Torres Strait Island people. |
| Additional principle | All people with disability in Victoria have the right to cultural safety and respect when accessing any disability specific or universal services and supports. |

**Duty to promote disability inclusion**

1. *What do you think of the proposed duty for government and defined entities to promote disability inclusion? Do you think the requirements for defined entities are appropriate or do they need any changes?*
2. *Are there any implementation issues that need to be considered to help defined entities promote disability inclusion?*

Feedback from people with disability is that this is very important to improve lives of people with disability and increased inclusion of empowered people will benefit all Australians.

Councils have a breadth of policies, service and programs with direct and significant impact on the public. Reprioritising resources to meet proposed requirements to conduct and report on Disability Impact Assessments reduce the capacity of Councils in another area. Resourcing to support the implementation of the Impact Assessments should be considered for the Defined Entities for both staff time and the training, guidelines and resourcing to build internal capacity to conduct Assessments consistently across different areas of Council, and across Defined Entities.

Councils have been mandated to implement Disability Action Plans, so the promotion of disability inclusion is not a new responsibility. There has been very limited opportunity to date for local governments to share the evolution of the Plans with the Victorian Government to develop guidance from ‘the field’ for those entities who will embark on these for the first time under new legislation. Strategic opportunities to enable a bottom up approach (from the governments working most closely with the people the represent) to inform the top down approach that is inferred by the proposed Bill should be created. This should also include the voices of people with lived experience involved in Disability Advisory Committees at the local level.

The requirement to ensure communications are delivered in at least one accessible format when consulting or engaging with people with disability requires further clarity. For inclusive best practice, this statement could refer to every single communication, internally and externally facing, as people with disability should be considered to be within every audience. In practical terms, if resourcing is limited and does not enable this for every communication, it would be beneficial to have set out: What is the minimum requirement? What is the benchmark for good practice? What does aspirational best practice look like?

Learnings from the introduction of the Gender Equality Act and the mandated Gender Equality Action Plans and Gender Impact Assessments needs to inform the resourcing provided by the Victorian Government to roll out any new legislation that follows in the wake of the Gender Equality Act for an improved and more efficient process.

Intersectionality is a significant challenge faced by community members from migrant backgrounds and was reinforced through stakeholder engagement to prepare this submission. The language barrier is often considered to be the focal barrier. However, the barriers run much deeper. Language barriers can also have a significant impact on the economic status of a person or family with disability experience, and therefore impact the process and likelihood to seek medical assessments etc for diagnosis before support can be provided. Familial support networks can also be very limited. Of great significance is the cultural overlay that results in people not seeking support that could be available if they are not aware that it is available as it is culturally unfamiliar. If people living with disability and their support networks are not seeking nor have the capacity to navigate processes until services and supports for daily living are sourced, then the barrier to disability inclusion becomes more distant. This is a common issue between government, defined entities and communities, and should receive greater investment for real impact.

**Disability Impact Assessments**

*9. What do you think about what defined entities need to do when conducting disability impact assessments? Is there anything else defined entities should do?*

*10. Are there any implementation issues that should be considered around defined entities conducting disability impact assessments?*

*11. Do you think the requirements on defined entities are appropriate or need any change?*

Resourcing by Council to undertake disability impact assessments (and other required reporting) above current requirements is the most obvious barrier for implementation. A dedicated staff resource would be required to lead this work internally, just as a dedicated staff resource was required to meet the Gender Equality Act requirements.

Disability Impact Assessments should be undertaken across the organisation by the teams leading the policy, program or service, and therefore significant capacity building is required internally for the assessment criteria to be well understood and consistently approached. The end objective is aspirational, and progress will take time.

Resourcing should be supported by the Victorian Government with training, guidelines and templates, in addition to funding for a staff resource. Process evaluation should also be undertaken by the Victorian Government for continuous improvement to be informed by the defined entities as well as government.

The complexity of assessing impacts around intersectionality will require additional resourcing, and development of processes. There are similar requirements for the Gender Impact Assessments for intersectionality. Consideration could be given to how impact assessments could be merged to assess social equity impacts collectively, instead of compliance under separate Acts, separate reporting chains, and separate Commissioners. Universal design and social equity both lend themselves to addressing equity in a consolidated impact assessment, addressed equity via several policy lenses.

The Impact Assessments and reporting need to build in a feedback loop for collective continuous improvement. This should take a bottom up approach from information collated by defined entities to understand good practice; priorities for investment; and systemic and systematic barriers.

**State Disability Plan and Disability Action Plans**

*12. What do you think of the proposed focus and requirements for preparing, consulting and reporting on a state disability plan?*

*13. What do you think of the proposed focus and requirements for disability action plans? Are there any practical implementation issues that should be considered?*

The proposed Bill does not articulate how the State Disability Plan will be informed by other defined entities, from a bottom up approach, as well as the State leading the way in policy direction. It would be a missed opportunity not to tune into the experience of local governments (covering the whole of the State), as well as all the other defined entities – be it with experience of developing and implementing Disability Action Plans, or a new responsibility to learn from potentially new thinking and approaches, or newly emerging issues.

The discrepancy between the State Plan required to report every 2 years, and other defined entities required to report every 12 months is not adequately explained as to why these differ.

Depending upon the detail of annual reporting criteria for defined entities, this could work against significant inclusion progress as social outcomes can often require longer timeframes for measurable progress, and data measurements are often not readily available within annual parameters.

The draft Bill provides a level of direction in relation to timelines for reporting at State level and for defined entities and outlines the timelines that the Commissioner will be responsible for. The Bill also addresses the transitional approach for defined entities to align with the new legislation. What the Bill does not articulate is whether the longer-term objective is to align the planning and reporting cycles for government and all defined entities. It would make sense to strategically align terms of Plans and reporting requirements to enable progress measures to be understood and transparent across Victoria. It would also enable organisational planning cycles to embed future plan development and reporting within holistic community engagement and corporate processes for efficiency.

**Monitoring and compliance**

*14. What do you think about the proposed monitoring and compliance mechanisms?*

*15. Do the proposed monitoring and compliance mechanisms strike the right balance between transparency, accountability and minimising regulatory burden?*

*16. Is there anything you would change about the proposed monitoring and compliance mechanisms?*

The proposed monitoring and compliance mechanisms are clear, however for new legislation and requirements there will likely be a lengthy transitional period required for new defined entities and those with experience in developing and reporting on Disability Action Plans to realise the intended progress measures, and to efficiently report on those. There is no mention of how the loop is closed for defined entities to have a collective feedback cycle into the processes; how the results of the reporting will be advantageous to defined entities, government and community to highlight areas of progress (or not); systemic challenges and future priorities.

The other missing component in the Bill is any reference to the Australian Human Rights Commission and possible interface between registering Disability Action Plans with the Commission and reporting to the Commissioner for Disability Inclusion. As the Commissioner for Disability Inclusion would not handle individual complaints or do investigations, it is apparent that the Australian Human Rights Commission will remain the overarching body for complaints of disability discrimination and the interface should be articulated in the Bill.

By not being clear on the interface, defined entities focussed on compliance with the Disability Inclusion Bill (including a narrower definition of disability) could lend themselves to exposure of a claim of disability discrimination.

**Commissioner for Disability Inclusion**

*17. What do you think of the proposal to create a Commissioner for Disability Inclusion?*

*18. What do you think of the proposed functions and powers of the Commissioner? What would you change?*

*19. Do you have any other comments on the proposed Commissioner model (or an alternative model)?*

Creating a Commissioner for Disability Inclusion is supported as it escalates the commitment and transparency for disability inclusion in Victoria. The requirement for the appointed Commissioner to be someone with a disability is strongly supported.

There is likely to be ongoing confusion between the role of the Disability Services Commissioner and the Disability Inclusion Commissioner. It would be important to understand how the communication channels will support each other to maintain public efficacy and trust and how the differences will be clearly communicated to the community.

**Victorian Disability Advisory Council**

*20. What do you think about the proposed changes to the Victorian Disability Advisory Council (VDAC)? Is there anything else you think should be included about VDAC?*

There is an opportunity to formalise the communications between VDAC and Disability Advisory Committees to any defined entity. The strength of the Disability Advisory Committees is to focus on local (in the case of Councils) or specific experiences (in the case of other defined entities that are not geographically based). There is an opportunity to share experiences, priorities and processes between local and state committee functions. While not possible at an individual level, there could be regional opportunities or themed approaches for workshops and collective impact. Formalising an alignment between local and state committees builds capacity, empowerment and collective value of all involved.