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Dear Sir or Madam

Private citizen's submission to The Inquiry into National Disability Insurance Scheme Bill 2012

WHO AM I?

I make this submission in the capacity of private citizen. I would be available to give further evidence.

My wife (of in excess of twenty years), Jenni, and my aunt also have serious physical disabilities. I have more than a decade's experience as a senior public servant within both the ACT and Commonwealth Governments. These positions include four years as a senior policy officer in the field of disability. I hold bachelor degrees in philosophy, sociology and law. For more than thirty years I have also been active in the disability rights movement and this experience includes serving on the boards of management of community organisations; ministerial appointments to advisory bodies; the making of submissions to parliamentary inquiries; and public speaking and writing opinions in the electronic media.

WHY AM I MAKING THIS SUBMISSION?

My family and I stand to greatly benefit from the enactment of the *National Disability Insurance Scheme Bill 2012*. Our lifelong condition of cerebral palsy has disabled Jenni and myself. Under the ABS's classification system the severity of our disabilities is 'profound' as we need assistance with daily core activities, such as: eating, dressing, showering, and toileting.

BUT, ISN'T DISABILITY IS A PERSONAL MATTER?

Well, no. Disability is not simply a personal matter. The storey of the Good Samaritan is deeply rooted in the Australian culture and has shaped the Australian, and English, law of torts. Australians pride themselves on ensuring that everyone is given a fair go. And, disability of course affects the person's family, friends of their family, and the broader community and economy.

In 2008 Cerebral Palsy Australia commissioned Access Economics to undertake a study of the cost of cerebral palsy (CP) on the Australian economy. The report found that, in 2007, the financial cost of CP in Australia was $1.47 billion or 0.14% of GDP. When the value of lost wellbeing (disability and premature death) was added, the cost rose a further $2.4 billion. The Report was concerned with only one disability type, cerebral palsy, there are countless other disabilities that had similar economic and social effects.

Even classical liberalism, I suggest, there is scope for the state to provide assistance to people with significant disabilities. For instance, it is sometimes argued that governments have only three functions: to protect against foreign invaders; to protect citizens from wrongs committed against them by other citizens; and to build and maintain *public institutions* and public works that the private sector could not profitably provide. All three of these roles have a 'public good' objective unpinning them. For the first two it is the protection of the citizen from criminals and invaders. The third function, however, is what Aristotle spoke about as ensuring that people have a 'good life'.[1] The seventeenth century philosopher, John Locke – upon whose writings much of our modern law is based – saw the state's role as

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[1] Aristotle, *Politics: A Treatise on Government,* Translated from the Greek by William Ellis, A.M., Published By J M Dent & Sons Ltd, London in 1912. Published online at www.gutenburg.org/ebook#6762, at 1325a.

protecting the citizen's property – including property within the person.[2] For Locke it was important that membership of a community (ie a country) provided the members with advantages that would outweigh their natural rights and freedoms sufficiently to warrant people consenting to forego or suspend them. He reasoned that people tend to act rationally and it would be irrational for people to consent to live by laws that failed to improve their quality of life. These limitations of freedoms include rules concerning the execution of justice, the acquiring of property, and the democratic system of law making. John Stuart Mill, in *On Liberty*, strongly advocated for the greatest respect for the protection of the individual's freedoms. However, he also recognised that the rule of the democratic majority often failed to protect the rights and freedoms of minority groups. He felt that, not only was it important for all individuals to be able to live as he/she pleased no matter how bizarrely it may be, the resulting creativity or such individual's differences may in fact lead to benefits to the wider population.

State recognition of certain people as having disabilities and supports has a history of many decades. For insurance, designed by Sir Christopher Wren, the Greenwich Hospital was founded in 1694 as the Royal Hospital for Seamen at Greenwich, which was established as a residential home for injured sailors. A second insurance of state responsibility for people with disabilities can be found in the 1601 Poor Law. Following the 1348-50 plague, 'The Black Death' regulatory provisions, the first poor laws, were enacted to address the shortages of labour by compelling everyone to be gainfully employed. Town sheriffs were authorised to whip or gaol those individuals who were not employed or who were without means. In 1601, a second generation of poor laws were enacted. These laws were more in the way of modern legislation and exempted people with disabilities from the need to participate in the workforce. People with disabilities were also permitted to beg and were protected from the usual harassment that other unemployed people faced. At around the same time the courts found that state, or the king, had an obligation to people with disability who were unable to provide for themselves.[3] The history of state support of people with disabilities extended through to the nineteenth century with the statutory licensing of workhouses in England and, in New South Wales too, religious operated charities.[4] At the beginning of the twentieth century Australia of extended its obligations to support those people with disabilities, who were not able to receive financial support from their family, by enacting the precursor to the current *Social Security Act 1991 (Cth)*, the *Invalid and Old-Age Pensions Act 1908 (Cth)*.[5] During the twentieth century the disability sector evolved from one dominated by charity operated institutions, such as the one that the late Associate Professor Christopher Newell attended,[6] to a system that was meant to enable us to be included in the community. The nineteen-seventies and eighties saw the introduction of the Home and Community Care Program and its enabling legislation.[7] The nineteen nineties saw the Commonwealth, State/Territory Disability Services Agreements (CSTDA),[8] which were renewed up to 1 January 2009 when the National Disability Agreement took effect. Total government expenditure on specialist disability services

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[2] Locke, John, (1690), *Second Treatise of Government*, edited, with an introduction, by C.B. McPherson, Hackett Publishing Company, Indianapolis and Cambridge, 1980. Clause 173 reads: 'By property I must be understood here, as in other places, to mean that property which men have in their persons as well as goods'.

[3] 'As early as 1603, Sir Edward Coke in *Beverley's Case*, 4 Co. Rep. 123 b, at pp. 126 a, 126 b, 76 E.R. 1118, at p. 1124, stated that "in the case of an idiot or fool natural, for whom there is no expectation, but that he, during his life, will remain without discretion and use of reason, the law has given the custody of him, and all that he has, to the King" (emphasis added).' (As cited in *Canadian case of E (Mrs) v. Eve ("Re Eve")* (52) (1986) 2 SCR. 388, par.40. Online at http://csc.lexum.umontreal.ca/en/1986/1986rcs2-388/1986rcs2-388.html and last accessed on 28 October 2008.)

[4] For instance: *Benevolent Society Act (1932) (NSW)*.

[5] The *Invalid and Old-age Pensions 1908 (Cth)* provided a modest living allowance to those who, through no fault of their own, were "permanently incapacitated for work" (clause 20) and (subclause 22(h)) who's 'relatives, namely, father, mother, husband, wife, or children do not, either severally or collectively adequately maintain him'.

[6] Goggin, Gerard, & Newell, Christopher, (2005), 'Chapter 5: Reinstitutionalising Disability', in *Disability in Australia: Exposing a Social Apartheid*, University of New South Wales Press, ISBN: 0 86840 719 4, p.122.

[7] *Home and Community Care Act 1985 (Cth)* (HACC). The HACC establishes a funding mechanism whereby the Commonwealth may make grants to the States and Territories for the provision of in-home care for those who are at risk of institutionalisation. Under the schedule Part 3, clause 5(a) one of the objectives of these agreements is 'to enhance their independence in the community and avoid their premature or inappropriate admission to long term residential care'. It is interesting to note that while clause 7(1) sets out a range of services that HACC funding may be used to provide, the agreement does not provide further detailed descriptions of each type of service. It is also interesting that the agreements do not provide for any complaints handling mechanisms.

[8] Australian Institute of Health and Welfare, (2012), Disability support services: services provided under the National Disability Agreement 2010–11, Disability series. Cat. no. DIS 60. Australian Commonwealth Government, p.1.

was $6.2 billion in 2010-11, a real increase of 1.5 per cent on expenditure in 2009-10 ($6.1 billion).[9] In a submission to the Joint Standing Committee on Treaties' Inquiry on the *Convention on the Rights of Persons with Disabilities* I questioned whether Australia was in a position to meet the costs associated with the Convention's ratification. To this the Committee replied:

> '2.64 The Committee considers that the Australian Government, and the governments of the States and Territories, must be prepared to meet any implementation costs arising from the obligations of the Convention.'[10]

So, is disability is a personal matter? I respectfully suggest that one's disability is the community's concern and has been for at least four hundred years to some extent. The role of government is to protect the citizen against external enemies and against other citizens. In Locke's words it is to protect poverty, which includes the body. The role of government is also to build infrastructure that is not profitable for the market to provide. Such infrastructure furthers commerce and increases the citizens' quality of life: both of these objectives are consistent with the NDIS Bill.

It is my suggestion that the positive effects of the NDIS will not be limited to the lives of people with disabilities. It will, instead, be an economic stimulus with wide spread consequences. In Aristotle's terms, it will result in a large proportion of the Australian citizenry enjoying a good life.

SPECIFIC COMMENTS AND OBSERVATIONS ABOUT THE NDIS BILL

In the remaining pages of this submission I provide specific comments and observations on the first forty-five clauses of the Bill. Others may comment on the latter three quarters and my silence should not be understood as though I have nothing to say.

Clause 3 Objects of Act

Paragraph 3(1)(d) should also acknowledge that people with disability have social obligations. We are son/daughters, parents, siblings, etc, employees/rs, students, etc. It is not just about a self-centred care system, it is also about enabling us to be responsibility for others as well.

Paragraph 3(1)(g): While people with disability are the main focus of the Act, there should be mention of there natural supports (eg family carers). This might be included in para(g) or after para(g).

Subclause 3 (3): While I understand the need for a progressive introduction of the scheme, I am concerned the paragraph (b) will be used to justify future under funding the Scheme. This effectively removes the entitlement aspect.

Clause 4 General principles guiding actions under this Act

The use of the word "should" is often used in drafting as a polite way of saying "must". In common English, however, it implies a certain degree of discretion. There is a risk that, given the vulnerability of people with disability, the word "should" will be interpreted as meaning that governments have a discretion rather than the "must" in accordance with drafting conventions.

The concern for 'should' being understood as a discretion is more worrying when it read with subclause 3(3)(b).

Notice too how there is a difference in the use of 'should', 'the same right' and 'should have the same right' (eg subclause 4(8)). The use of these three terms implies three different levels of protection: While there is a question about whether the phrase 'the same right' implies a claim against the government for resources (a positive right or an entitlement) or just a freedom, the subclauses that uses these phrases imply the strongest rights. (I discussed further below in relation to subclause 4(1).)

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[9] Australian Productivity Commission, (2012), 'Chapter 14: Services for people with disability', in *Report on Government Services 2012*, p.14.9. Online at: http://www.pc.gov.au/gsp/rogs/2012 and last accessed 24 January 2013.

[10] Joint Standing Committee on Treaties, *Report 95*, paragraph 2.64.

The next strongest level of rights are those subclauses that use the phrase ‘should be supported’. Here we have a discretion on the government, but also an obligation to provide resources to support the individual.

The weaker phrase is the subclauses that contains the phrase ‘should have the same right’. This combination of ‘should’ and ‘same rights’ is particularly concerning because of the discretional meaning of ‘should’. If ‘should’ is used to politely mean ‘must’, than this implies that the government (or someone) much act to ensure that these rights are realised. But, why not just say so: ‘people with disability are to be supported to…’?

Subclause 4(1): what does ‘the same right as other…“ mean? Does it mean we are free to do XYZ? Or does it mean we can expect to have assistance to do XYZ? Under the general principles of human rights law, there are very few positive rights or claims against the state. So, the presumption is likely to be towards the freedom interpretation.

Subclause 4(2): notice that the words “should” and “to the extent of their abilities”. Again, there appears to be a discretion. But more importantly there is an ambiguity with the last six words (‘to the extent of their ability’). Does it mean to the person’s ability with, or without, support?

Subclause 4 (3): uses the word “lifetime”. Does this mean that the NDIS is for life? This is a little confusing when taken with the ‘disabled before age 65’ criterion: clause 22.

Subclause 4(4): what does “goals” means and how does it differ from choice and planning? I do have a little concern about the use of ‘goals’. While it can be a useful tool to be able to say ‘I need more … because without it I won’t be able to realise my goal’, our lives must not be understood as merely a series of goals.

Subclause 4(5): while early intervention is critical, it should not be singled out and included in this subclause. The history of those of us with lifelong disabilities has been that prior to leaving school there is a mountain of resources provided to us. Once we leave school, however, we are rarely provided with any ongoing therapies.

Subclause 4(6): The comparison with ‘other members of Australian society’ is generally great. The only two minor worries are:

(i) Not all women in Australia are culturally protected from abuse or are seen as having worth. The law punishes those who are bought before it, but few cases are. People with disability may, in some situations need greater protection.

(ii) The subclause states that we have ‘the same right’, but does not say that these rights should be supported. Therefore, we are free from discrimination from accessing victim support services, for instance, but these services (or the government) do not have to ‘support’ us to access them. Draw a comparison with subclauses 4(4) and (5) in which we can expect more assistance.

Subclause 4(7): I’m not sure how many non-disabled Australians need to complain about their paid carers. The comparison, while well intended, is problematic because people with disability other require complaint handling systems and specialist advocate services that mainstream Australians.

Subclause 4(8): this is good. However, suggest replacing ‘to the full extent of their capacity’ (which is obviously referring to people with intellectual disabilities) to a more enabling wording. This phrase is inherently negative. The subclause should say that we have the right to appropriate levels of support in our decision-making. Compare this subclause to subclause 4(9), for instance.

Subclause 4(9): good.

Subclause 4(10): I think this statement should be filled out a little. ‘Privacy’ means different things to different people in different contents. Public servants, for incident, will think of privacy in relation to information and the various privacy legislation. In home environment, on the other hand, privacy may mean shutting the bathroom door. Perhaps ‘dignity’ requires privacy at the home level, but people with disability are often very vulnerable and clarity in statutory drafting is important.

[On dignity, it seems to be an omission not to include a statement on ‘dignity of risk’. While it would require a systematic and planned approach, which dealt with duty of care and criminal liability, it is critical for growth and a high quality of life that people with disability be allowed to take risks, to make mistakes and to benefit from doing so. I believe that the tort law provides the conceptual framework, but few laymen know about it and insurance companies profit from there being a perceived high risk.]

Subclause 4(11): Paragraph (b) could after ‘employment’ include ‘, and to fulfil social and family obligations’.

Subclause 4(12): Good. So long as ‘respect’ does not mean given paramount importance to.

Subclause 4(13): Good.

Subclause 4(14): Excellent. So long as these do not override the individual’s choice. And, ‘Innovation’ and ‘effectiveness’ should not become code for cutting corners.

Subclause 4(15): This seem repetitious with subclause 3(3), and therefore unnecessary.

Clause 7 Provision of notice, approved form or information under this Act etc.

Subclause (1):

- after ‘mode of communication’ include ‘(such as Brallie)’.
- after ‘language’ include ‘(such as sign language)’. Not everyone thinks of sign languages as languages.

Though, caution should be exercised where there is any specific technology is mentioned in the Bill because technology tends to change quickly.

Clause 9 Definitions

‘disability’:

- There does not seem to be a definition of ‘disability’. While it may be define else where in the bill (ie clause 24), most readers would look for it in this clause. It may be worth including a note explaining why.
- I assume that ‘disability’ here would be considerable different from, say, the definition in the *Disability Discrimination Act 1992*.

‘participant’s impairment’ & ‘prospective participant’s impairment’: it is great to see the correct terminology being used. However, it may be worth including a note on how impairments relate to disability.

Clause 14 Agency may provide funding to persons or entities

This seems to be an excellent provision.

Notice also the phrase ‘… to realise their potential for physical, social, emotional and intellectual development’. This is great because it includes more than the mere basic day to day living needs.

Note, however, the word ‘assist’ could imply that it is the Agency that is delivering the services. The clause actually means assisting through the provision of funding.

Sex workers

For a moment I wish to return to the phrase ‘… to realise their potential for physical, social, emotional and intellectual development’ and highlight the term ‘emotion … development’. For many of us with profound physical disabilities we need assistance with sexual release and sexual expression. We do not all have able-bodied sexual partners who can or are willing to assist us to have sex release. It is most often inappropriate to ask a support worker, friend or family member because of the social implications. In jurisdictions where sex work (ie prostitution) in legal, the Bill should explicitly state that, subject to this need being identified in the participant's plan, it should be given the legislative status of a legitimate care need. The problem with having it simply implied is that only those who want to understand its fully meaning will.

Clause 17 National Disability Insurance Scheme rules

It would be helpful if this clause stated that:

- Where there is any uncertainty in the rules, the legislation is to be use to clarify the issue; and
- Where there is an inconsistence between the rules and the Act, the Act prevails.

These are basis legislative interpretation rules, but many in the disability sector are not schooled in legislative interpretation.

Clause 18 Person may make a request to become a participant

Does the person have to make the access request his/herself, or may a third party make it on his/her behalf? This is probably addressed elsewhere, but should be addressed here.

Clause 19 Matters relating to access requests

Subclause 19(2) allows applicants to make any number of access requests. Should the Agency have a discretion to refuse access requests from applicants who are clearly beyond the criteria and who submit a large number in a short timeframe?

Clause 21 When a person meets the access criteria

Subclause 21(2)

- This subclause appears to be providing a second test for an applicant to meet the criteria (being in receipt of a disability service). This subclause is unclear.
- If so, is there potential two classes of participants emerging?

Clause 22 Age requirements

It is noted that this criteria (age) is different from the criteria that has been used under the Disability Services Acts.

It is also noted that social welfare type of legislation tend to 'grandfather' those people who would continue to benefit from the scheme if it was not for the change in the rules. People with lifelong disability and who are older than 65 will not qualify under clause 22.

With the average aged-care entry age being 84, those who are between 65 and 84 will not socially fit within the aged care system. Nor will the aged care system be equipped to provide the particular types of services required by this group.

Clause 23 Residence requirements

It is noted that the Immigrant Act has a health test that enables visas to be denied where a person's ongoing care needs are estimated to outweigh the applicant's estimated value to the nation. How will clause 23 affect, if at all, this health test?

Might there be scope in the future to have treaties with other countries concerning costs swapping arrangements?

Clause 24 Disability requirements

There are some people who claim to be allergic to modern society or chemicals in the built environment. Other people are 'disabled' by diseases, such as advanced AIDS. I am not advocating that these people should be included, but merely questioning whether they should be and, if so, point out that these criteria would exclude them.

Clause 26 Requests that the CEO may make

It is noted that the CEO has a discretion (i.e. 'the CEO may…') to request further information. It is hoped that common sense will prevail to not require applicants with obvious profound disabilities to seek medical assessments.

Clause 29 When a person ceases to be a participant

Under paragraph 29(1)(b) this reads as though a person does not cease to be a participant unless he/she reaches 65 AND enters a residential care service or is provided with community care on a permanent basis. This effectively means that 65 is not an age limit in and of itself.

What safeguards will exist to keep older participants from being pressured into age care services?

Clause 31 Principles relating to plans

This provision seems to be excellent.

One concern is the phrase 'reasonably practicable'. This seems to contain, not one, but two qualifiers. It has to be both reasonable – it cannot cost a fortune, for instance. And, it has to be practicable. But, could it be one or the other without being both? If not, then why have the drafters included both? Is it 'to be sure to be sure"? or does including both bring a new combined qualification. So, the plans do not only have to be practicable, they have to by reasonably practicable. This seems to be a low standard than just one or the other: reasonable or practicable.

Clause 32 CEO must facilitate preparation of participant's plan

In Subclause 32(1) does 'facilitate' mean that other individuals or organisations can help the participants to prepare plans, or do Agency staff have to?

Clause 33 Matters that must be included in a participant's plan

Subclause (2): Should the Statement of Participant Support identify any likely barriers, risks, and any third party cooperation that will be needed? For instance: the assessed level of support may be lowed by a partner's willingness to assess. But if the partner is unavailable, this will leave the participant without support.

Paragraph (5)(e): While a key word is 'wishes', I wonder whether there may be situations where he/she may wish to manage his/her plan, but lack the skills to do so. Of course, this would not create a right for individuals to manage their own plans, but it may be misunderstood as doing so.

Subclause (6): the phrase 'to be provided only by a registered provider of support' is concerning:

- It effectively closes the door to innovation on a local level. For instance, a participant cannot enter into casual arrangements with neighbours.
- In the situation where, say, sex workers (or another occupation with a strong stigma) are engaged, the sex worker is unlikely to want to register for fear of stigma and privacy issues. Participants also may be concerned about their privacy.

Random thought: How will this provision sit with the Australian Government's procurement procedures and obligations? If, for instance, a successful disability service provider enters into contacts with the Agency to provide services to a value that would normally require the Government to go to tender, then will this being a breach the Commonwealth's Procurement Guidelines?

Clause 34 Reasonable and necessary supports

Paragraphs (a) & (b): A general observation is that these paragraphs are of a slightly different natural to the other paragraphs in clause 34. These two paragraphs aim to ensure that the funds or supports are targeted to achieving the participant's goals. The remaining paragraphs are concerned with ensuring that funds are not spent on out of scope activities.

Paragraph (e): This provision is somewhat unclear in how it will operate. On one hand, it could be used to justify additional support being given where there is a family circumstance that has a negative impact on the participant's ability to cope. On the other hand, it may be used to justify the reduction in support where the participant is fortunate enough to have family and friends to assist him/her.

The concerns with paragraph (e) include:

- Participants may be encouraged to rearrange their social circumstances in order to increase their supports.
- Ageing parent-carers maybe encouraged to continue providing unsustainable levels of care in times when the Scheme is low on resources.
- It is not immediately obvious what is meant by 'and the community' in this context. If I attend a business meeting, for instance, it might be reasonable for a colleague to place a straw in a glass of water for me, but unreasonable to expect him/her to feed me lunch or assist me in the bathroom. Or does it mean that, since the local Lions Club has previously raised money to contribute to the costs of a new motorised wheelchair, I should approach them rather than the Agency?

Paragraph (g): Safeguards need to be adopted to ensure that services that are disapproved of by one sector of the community are not excluded for everyone. For instance, a religious base organisation may disapprove of participants accessing sex services and so lobby to have these included in the Rules as not to be funded.

Clause 35 National Disability Insurance Scheme rules for statement of participant supports

Paragraph (1)(b): see comment on paragraph 34(g) above.

Paragraph (4)(b): Compensation heads, other than for support, should not be used to reduced the support provided unde the NDIS. For instance, compensation for pain and suffering has not direct corresponding provision under the NDIS.

Clause 40 Effect of temporary absence on plans

It is often the case that a people with profound disabilities will require the assistance of a support worker on an international trip. Clause 40 could be read to imply that this is not an option.

Clause 41 Suspension of plans

If a post-graduate student was to win a fellowship to study in, say, England for twelve months and needed to employ local support staff there, would this be possible under the Bill?

Clause 43 Choice for the participant in relation to plan management

Subclause (1): How does this fit with the Disability Trusts made possible under the *Social Security Act 1991 (Cth)*? Presumably it should be possible to establish a Disability Trust with a few trustees with a principal trustee to make day to day decisions.

Clause 44 Circumstances in which participant must not manage plan to specified extent

An useful provision might be to allow participants, and nominees, with few financial skills to management plans under the financial supervision of a qualified bookkeeper, accountant or financial adviser.

It may also be good if the CEO could require participants, or their own nominees, to attend minimum training sessions if the CEO is concerned about their capacity to manage the plan.

Clause 45 Payment of NDIS amounts

While the Rules can be used to specify that NDIS Amounts should be paid into a separate bank account from the participant's personal account, I suggest that this be a statutory requirement so that Social Security assets and income tests are easier to comply with. It would also reduce the temptation to borrow from the NDIS Account because the funds would be traceable.

Clause 55 Power to obtain information from other persons to ensure the integrity of the National Disability Insurance Scheme

Not clear how this provision sits with the right not to criminate oneself.

Clause 59 Interaction with Commonwealth laws

I note that this Act would meet the exempt to the limits on the disclosure of personal information under the IPP 11.1(d), section 14 of the *Privacy Act 1988 (Cth)* ie 'authorised by law'.

Clause 60 Protection of information held by the Agency etc.

Subclauses (1) and (2) seem to mostly cover similar ground to the *Privacy Act 1988 (Cth)*. This seems to unnecessarily duplicate the Commonwealth's rules in relation to the making, using and disclosing of protected information. It raises the question whether the Parliament had intended that the information under this Bill to be treated differently to other personal information under the Privacy Act? If so, will this mean that the Privacy Act is not applicable?

It would be preferable to draft clause 60 to be read in conjunction with the IPPs under the *Privacy Act 1988 (Cth).*

Clause 66 Disclosure of information by CEO

Paragraph (b)(v): The phrase '…for the purposes of that Department or authority' seems to be particularly vague. While it may be somewhat obvious that a state/territory public housing authority may wish access to the NDIS Agency's information for income assessments and future planning of accessible housing, how does one determine the scope of an authority's purpose?

Clause 68 Part does not affect the operation of the *Freedom of Information Act 1982*

Does it effect the operation of the *Private Act 1988 (Cth)*?

Concluding remarks

The enactment of the *National Disability Insurance Scheme Bill 2012 (Cth)* (the Bill) will mark a significant shift in paradigm from a ‘broken’ system, which has its originals in the Nineteenth Century’s charity philosophy, to a statutory well designed paradigm that takes its originals as the *Convention on the Rights of Persons with Disabilities (New York, 30 March 2007) - [2008] ATS 12.*

This Bill is not prefect: is unlikely to satisfy everyone. But, it provides us with enough of a foundation on which to build over the coming years and decades. More than merely a simple statute, this Bill represents a new agreement with people with significant disabilities. It is a reconciliation between the able and those who have had their impairments turned into disabilities by the lack of assistance. The Bill does not promise that there will always be sufficient public funds, but it will assist in ensuring that those funds that are available are used appropriately.

To return to Aristotle for one last time. This Bill goes further than merely ensuring that the public infrastructure is in place to maximise the potential of people with disability. ***This Bill ensures that anyone can enjoy a good life***.

Thank you
David Heckendorf
25 January 2013