

1 October 2025

Dear Committee,

This submission is briefer than hoped, due to the impacts of my own ART case in the NDIS division.

I do not support the proposed new powers under s 106 for the same reasons outlined by National Legal Aid.

I listened to this morning's evidence. I heard one message: **The Tribunal is prioritising efficiency at the expense of other statutory objectives at s 9, including accessibility and transparency.**

To use the pub test concept NDIS participants are well sick of: If I had knocked back a shot every time the Principal Registrar mentioned efficiency, I would have been drunk before this morning's second session!

The last nine months of my life have been spent asking the Tribunal to uphold its accessibility objective, at the cost of serious detriment to my case and my health. The current powers under s 106(4) were used to order my case be decided on the papers, disregarding my submissions that the issues could not be determined adequately in the absence of the parties, and relying on purported non-compliance with directions *which set me up to fail by repeatedly disregarding medical evidence and accessibility needs*. The NDIA supported these orders after opposing key procedural adjustments requested for communication accessibility at hearing.

Had these powers already existed, I believe they would have been used just as unfairly to refuse to accommodate my accessibility needs. Either way, the burden – and cost risk – will inevitably fall on me to challenge the reasonableness and lack of consideration to the issues in dispute via judicial review.

A Freedom of Information request confirmed that, in August 2025, the Tribunal did not even have a draft accessibility practice direction in progress. I expect the proposed s 106 power to be misused to circumvent the Tribunal's accessibility obligations, in the full knowledge the vast majority of self-represented applicants who most need greater accessibility will be least able to pursue judicial review if s 106 orders are made unreasonably and deprive them of a successful outcome.

'Settling at the courtroom doors' frequently occurs in NDIS cases. The Tribunal has other powers to order earlier cooperation from the NDIA, but as many NDIS applicants can attest, the Tribunal is often reluctant to address the NDIA's intransigent conduct (as it was recently described in a legal submission to the NDIS JSC).

The Tribunal should not be given even greater powers to neglect the accessibility obligations it is currently failing to address seriously, even when these rise to alleged disability discrimination. Unfortunately for those of us in the middle of questionable bureaucratic priorities, adequately particularising such complaints for the Ombudsman or Human Rights Commission is another burden we are unable to carry while unable to keep up with inaccessible ART proceedings.

The ART must demonstrate capability and commitment to its accessibility objective – not just commitment to marketing accessibility which doesn't exist in practice – and to holding all Members to the highest standards of accessibility regardless of seniority, before it can be trusted with these powers. To date, it has not demonstrated either in practice and cannot be trusted to exercise these powers fairly and responsibly.

Recommendation 1: This bill must not pass with the proposed s 106 powers.

Recommendation 2: The ART's compliance with the accessibility objectives at s 9(c) and s 51 of the ART Act (including to be trauma-informed and responsive to the diversity of accessibility needs) and the relationship to procedural fairness should be referred to the Administrative Review Council for public inquiry, including public submissions on proposed accessibility practice directions.

Yours sincerely,