



First Peoples
Disability Network
Australia

8 February 2024

Australian Government

Senate Economics Legislation Committee

FPDN SUBMISSION

Re: Senate Economics Legislation Committee Inquiry and Report into Help to Buy Program

The First Peoples Disability Network ('FPDN') welcomes the opportunity to make a submission to the Senate Economics Legislation Committee ('The Committee') following the referral of the *Help to Buy Bill 2023* and *Help to Buy (Consequential Provisions) Bill 2023* (collectively referred to in this submission as 'the Bill'). This submission will provide key points for consideration throughout the Committee's inquiry and report, with the aim of placing the Senate in the best possible position to improve the functionality of the Bill in relation to First Nations persons with disability.

About FPDN

The First Peoples Disability Network (FPDN) is the national peak organisation of and for Australia's First Peoples with disability, their families and communities. We actively engage with communities around Australia and represent Aboriginal and Torres Strait Islander people with disability in Australia and internationally. Our goal is to influence public policy within a human rights framework established by the United Nations Convention on the Rights of Persons with Disability and the United Nations Declaration on the Rights of Indigenous Peoples. Consistent with our principle of community control, our organisation is governed by First Peoples with lived experience of disability.

FPDN is a Disability Representative Organisation, the Aboriginal community-controlled disability peak, and member of the Coalition of Peaks, a partner to all Australian governments through the National Agreement on Closing the Gap (the National Agreement).



FPDN lead the development of the Closing the Gap (CtG) Disability Sector Strengthening Plan and is actively involved in the CtG Housing Sector Strengthen agenda, the CtG Justice Policy Partnership and the CtG Early Childhood and Development Policy Partnership. FPDN is also a key Commonwealth partner dedicated to progressing implementation of *Australia's Disability Strategy 2021-2031*.

Further information about FPDN, First Nations people with disability, the relevant policy context can be found in [Appendix A](#).

Relevant peak bodies have not been consulted in accordance with key commitments that have been made by the Australian Government.

Through the National Agreement all governments have committed to work in partnership with First Nations people as represented by their community-controlled peak and representative organisations.

Noting that the scope of the Help to Buy Program will initially be limited to only 10,000 placements per year (for at least four years),¹ FPDN is concerned by the fact that the provisions of the Bill do not contain any definitive commitments by the Australian Government to prioritise the applications of disabled and First Nations persons who wish to enter into Help to Buy Arrangements.

The Explanatory Memorandum material makes it incredibly clear that the Australian Government is conscious of the existence of a general housing crisis and its resultant obligations under the *International Covenant on Economic, Social and Cultural Rights* ('ICESCR'), such as the article 11(2) duty to provide an adequate standard of living.²

However, the Explanatory Memorandum's Statement of Compatibility with Human Rights makes no mention of the Government's housing obligations and commitments to First Nations persons with disability specifically, and Australians with disability as a whole. All

¹ Explanatory Memorandum, Help to Buy Bill 2023 (Cth) 28.

² Ibid, 27-29.



Australian Governments have agreed to the pursuit and fulfilment of relevant target areas, including:

- (i) Target 9 of the National Agreement, which requires that Aboriginal and Torres Strait Islander *'[p]eople can secure appropriate, affordable housing that is aligned with their priorities and need'*;
- (ii) The relevant indicators of the Housing Sector Strengthening Plan which exists under Priority Reform 2 of the National Agreement;
- (iii) The relevant indicators of the Disability Sector Strengthening Plan which exists under Priority Reform 2 of the National Agreement; and
- (iv) The priority outcome under Australia's Disability Strategy 2021-2031 (ADS) that *'People with disability live in inclusive, accessible and well-designed homes and communities'*, in accordance with agreed Priority Policy Areas 1-2.

The Australian Government's commitments under these agreements mirror its obligations under the *Convention on the Elimination of All Forms of Racial Discrimination* (CERD),³ and the *Convention on the Rights of Persons with Disabilities* (CRPD).⁴ In terms of compatibility with human rights, it is evident that the content of the Bill substantially engages the relevant articles of these international conventions.

Put succinctly, debate on the Bill will be incomplete if these topics are not addressed and resolved. The consequences of a general housing crisis can be utterly disastrous for an individual who (a) has unique housing requirements pertaining to the existence of a disability,⁵ (b) is a First Nations person who is historically disadvantaged in relation to

³ United Nations, 'Convention on the Elimination of All Forms of Racial Discrimination' Article 5, accessed 17 January 2024.

⁴ United Nations, 'Convention on the Rights of Persons with Disabilities' Article 28 (Adequate standard of living and social protection), accessed 17 January 2024.

⁵ See, for example, the analysis of recent Australian Institute of Health and Welfare (AIHW) and data analysis carried out by Everybody's Home:

<https://everybodyshome.com.au/people-with-disability-are-missing-out-on-homes/>



property ownership,⁶ or (c) is a First Nations Person with a disability who must face an intersectional combination of these disadvantages.⁷

In light of the above issues not being identified throughout the initial drafting stage of the Bill, FPDN and other peak bodies have not been consulted to a degree which would satisfy the communities expectation set by all Australian government's commitments (particularly under the National Agreement) to the principles of co-design and partnership. In any situation where First Nations people with disability are likely to be impacted by the creation of legislation, the drafting process should be grounded upon an extensive engagement and consultation process.

The need to Embed Processes for Priority Applications

As it stands, the 'day-to-day' functioning of the Help to Buy program will be significantly dependent upon Housing Australia's implementation of any 'Help to Buy Program Directions' which are issued by the Housing Minister (pursuant to clause 24 of the Bill).

It appears that (pursuant to clause 25-1 of the Bill), the Housing Minister would already have the power to give a direction that Help to Buy applications should be prioritised for certain vulnerable groups, via setting the '*criteria for making decisions in the performance of the functions [under the Bill]*'. Whilst somewhat positive, this gives no guarantee that a suitable direction would actually be given (nor that it could not easily be amended or revoked at a later date).

⁶ Based on the ABS Census of Population and Housing in 2021, home ownership rates remain substantially lower for Indigenous households than other households (42% compared with 68%):

<https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/housing-statistics-aboriginal-and-torres-strait-islander-peoples/latest-release>

⁷ See S Avery, '[Culture is Inclusion](#),' 2018, First Peoples Disability Network. It is difficult to reliably cite intersectional data which provides specific insights into rates of property ownership or homelessness amongst Aboriginal and Torres Strait Islander people with disability, as commonly cited surveys, such as the National Aboriginal and Torres Strait Islander Social Survey (NATSISS) and Survey of Disability, Ageing and Carers (SDAC) only survey people currently living in private dwellings.

Nevertheless, S Avery's analysis of the data indicates (at pg. 115) that 'Aboriginal and Torres Strait Islander people with severe and profound disability have experienced homelessness at 1.9 times the rate of Aboriginal and Torres Strait Islander people without disability (41% compared to 22%).'



Therefore, FPDN submits that this possibility should be replaced by a definitive commitment, built into the initial clauses of the Bill. For example, an additional subclause could be added to clause 24, to the effect that the Minister must not issue a Help to Buy Program Direction unless (i) the Minister has already issued a direction outlining the criteria for priority applications by disabled and First Nations persons, or (ii) the Minister has also included those criteria within the initial directions.

Such an amendment would not drastically change the scope of the Help to Buy Program, but would bring it into line with the commitments made by the Australian Government.

Conclusion

FPDN invite members of the Senate to work together with FPDN and other peak organisations (appropriately resourcing, if required) to ensure that represent communities most affected by housing, in moving towards amending the Bill, so as to ensure that First Nations people with disability have access to appropriate, affordable and accessible housing.

FPDN thanks the Senate Economics Legislation Committee for the opportunity to participate through this submission and welcomes further discuss of any of these points with you.

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Appendix A

About FPDN

FPDN is the community-controlled disability peak and a member of the Coalition of Peaks, a partner to all Australian governments to the Closing the Gap National Agreement. We are also the First Nations Disability Representative Organisation actively representing the voices of First Nations peoples within Australia's Disability Strategy governance structures. For millennia, First Nations peoples, communities, and cultures have practiced models of inclusion. However, despite this, since colonisation, First Peoples with disability and their families have been and continue to be amongst the most seriously disadvantaged and disempowered members of the Australian community. FPDN gives voice to their aspirations, needs and concerns and shares their narratives of lived experience. Our purpose is to promote recognition, respect, protection, and fulfilment of human rights, secure social justice, and empower First Peoples with disability to participate in Australian society on an equal basis with others. To do this, we proactively engage with communities around the country, influence public policy and advocate for the interests of First Peoples with disability in Australia and internationally.

Our extensive national work includes community engagement, capacity building and rights education; systemic advocacy, policy, research, evaluation and data; the development and delivery of evidence-informed training and resources with community for community and to a range of sectors including the Community Controlled sector and mainstream disability sector, Commonwealth and state/territory government policy and service delivery agencies and departments. FPDN also has an international presence and networks, including with the United Nations, and provides consultancy and support to international regions.

We follow the human rights framework established by the United Nations Convention on the Rights of Persons with Disabilities (CRPD), to which Australia is a signatory, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

We are also guided by both the social and cultural models of disability. The social model views 'disability' to be the result of barriers to equal participation in the social and



physical environment. These barriers can and must be dismantled. However, FPDN recognises the critical need to move beyond a social model to ensure the cultural determinants of what keeps First Nations people with disability strong is centred when working with and in designing policies and programs to improve outcomes for First Nations people. We call this a cultural model of inclusion.

A cultural model of inclusion recognises the diversity of cultures, languages, knowledge systems and beliefs of First Nations people and the importance of valuing and enabling participation in society in ways that are meaningful to First Peoples.⁸ A First Nations cultural model of inclusion includes the human rights framework and the social model of disability to ensure that enablers, approaches, services and supports are culturally safe and inclusive, and disability rights informed. It is the only disability model that seeks to improve the human condition through focussing on what keeps people strong, as distinct to merely negating the adverse impact of difference.

Our community has to operate in multiple worlds – First Nations, disability, and mainstream society. The disability sector reflects this and is a complex and interconnected web of approaches to enable First Nations people with disabilities to realise their rights to participate in all aspects of their life, including safe, affordable, accessible and inclusive housing. These enablers, approaches, services and supports need to exist across the entire life-course, including the Aboriginal and Torres Strait Islander Community Controlled Sector and mainstream disability sector, as well as mainstream organisations and services.

The policy context

FPDN recognises the unique opportunity both Closing the Gap and Australia's Disability Strategy to ensure the legislation, policies, programs and service delivery are accessible, inclusive and equitable for First Nations people with disability.

FPDN discussion points and recommendations are in line with the Closing the Gap National Agreement Priority Reforms and the Disability Sector Strengthening Plan and its Guiding Principles. The Priority Reforms focus on changing the way governments work with

⁸ S Avery, '[Culture is Inclusion](#),' 2018, First Peoples Disability Network.



Aboriginal and Torres Strait Islander peoples and the Disability Sector Strengthening Plan outlines high-level priorities and actions at a national level to strengthen and build a Community Controlled Disability Sector. The Commonwealth government, all State and Territory Governments and the Local Government Authority are signatories and partners to the National Agreement and also the Disability Sector Strengthening Plan. The Priority Reforms are:

1. Formal partnerships and shared decision-making
2. Building the community-controlled sector
3. Transforming government organisations
4. Shared access to data and information at a regional level

Applying the Closing the Gap approach to disability as a cross-cutting outcome through the Priority Reforms offer structure to government to ensure First Nations peoples with disability have:

- A greater say in how policies and programs are designed and delivered;
- Have access to community-controlled services and sectors that delivers culturally safe, accessible and inclusive, and disability right informed services;
- Have access to mainstream organisations and services, such as NDIS services, hospitals, schools and government agencies, that are culturally safe, accessible and inclusive, and disability right informed;
- And have access to, and the capability to use, locally-relevant, First Nations disability informed, data and information.

First Nations people with disability

For millennia, First Nations peoples, communities, and cultures have practiced models of inclusion. This embracing of diversity and inclusion “is derived from a belief system and worldview of humanity in which biological, physical and intellectual differences are accepted as part of the fabric of society.”⁹ Drawing on nation-wide available data, First Nations people

⁹ S Avery, ‘[Culture is Inclusion](#)’, 2018, First Peoples Disability Network.



with disability are included in their own communities across social, cultural and community events on average more than other Australians with disability.

However, despite this strength, since colonisation First Nations people with disability experience significant levels of inequality across all other life areas compared to other Australians, including in areas of health, education and social inequality.¹⁰ Whilst population prevalence data is limited, First Nations people are twice as likely to experience disability than the rest of the Australian population.¹¹ Using the statistical definitions of 'severe and profound disability' in the Australian Bureau of Statistics (ABS) datasets, including the *ABS Survey of Disability, Ageing and Carers (SDAC)*, 2018,¹² it is estimated that over 60,000 Aboriginal and Torres Strait Islander people live with severe or profound disability in Australia today.¹³

First Nations people with disability experience many intersectional forms of discrimination, including discrimination based on age, gender, sexuality and geographic location. These intersecting forms of discrimination are institutionalised and embedded in how policies and programs have been designed, including the NDIS.

Consistent with the social and cultural models of disability within which FPDN works, we recognise that Aboriginal and Torres Strait Islander people are disproportionately affected by poor outcomes. This impact is widespread and has social, emotional, physical, economic and cultural impacts.

First Nations Disability Data Gap

As noted in the Disability Sector Strengthening Plan, First Nations people with disability sit on the periphery of both national disability policies, frameworks, data infrastructure or research agendas. In effect, this means data about and evidence by First Nations people with disability are often not captured in its own right. This has key implications for how data and

¹⁰ S Avery, '[Culture is Inclusion](#),' 2018, First Peoples Disability Network: Australian Bureau of Statistics (ABS) (2016) *National Aboriginal and Torres Strait Islander Social Survey*, (NATSISS) 2014-15 (Release 4714.0).

¹¹ Australian Bureau of Statistics (ABS) (2016) *National Aboriginal and Torres Strait Islander Social Survey*, (NATSISS) 2014-15 (Release 4714.0).

¹² ABS, '[Disability, Ageing and Carers, Australia: Summary of Findings](#),' 2018, accessed 29 August 2023.

¹³ S Avery, '[Culture is Inclusion](#),' 2018, First Peoples Disability Network.



evidence is captured in relation to First Nations people with disability and their unique experiences of interaction with the service systems and all other aspects of life, including what living well looks like for a First Nation person with disability. Existing data and research is often limited in scope, and often does not provide sufficient focus to all experiences of disability in regional, remote or urban contexts. FPDN is in the process of developing a broad First Nations disability data strategy, however, there is a need for dedicated First Nations Disability data project with specific intersectional data on autism.

When the ADS and CTG are used in conjunction, effective outcomes are more likely to occur across the four Priority Reform areas of formal partnerships and shared decision making, building the community-controlled sector, transforming government organisations, and shared access to data and information. Without an awareness of how CTG and ADS work together, responsibility is not likely to be claimed by any portfolio.

Human Rights and the Disability Sector Strengthening Plan

Other documents to integrate include the Disability Sector Strengthening Plan (DSSP), the Convention on the Rights of Persons with Disability, and the United Nations Declaration on the Rights of Indigenous Persons.

The Disability Sector Strengthening Plan Guiding Principles¹⁴ focus on the following:

- Human rights
- Self-determination
- Cultural integrity
- Cultural safety
- Partnership
- Place based
- Innovation
- Empowerment
- Equity
- Sustainability
- Knowledge

¹⁴ Closing the Gap, '[Disability Sector Strengthening Plan](#),' accessed 5 October 2023.



- Nationally consistent approach.

The Convention on the Rights of Persons with Disabilities aligns with CTG through its general principles which focus on respect, non-discrimination, participation and inclusion, equality, and accessibility.¹⁵ These align with Priority Reforms 1 through 3.

United Nations Declarations on the Rights of Indigenous Peoples¹⁶ centre around equality, freedom from discrimination, recognition of historic injustices, respect for Indigenous knowledge, cultures and practices, and acknowledging the right for Indigenous people to retain shared responsibility for sharing knowledge and exercising self-determination. These declarations align with each of the four CTG priority reforms.

It must be noted that each of these Strategies and Declarations have been signed and ratified by government at all levels. All CtG priority reforms and targets are visible but not often met. The CTG Agreement has been operating for three years with mixed implementation of governments obligations. There needs to be a greater commitment from all levels of government to meet timelines in an efficient and timely manner.

¹⁵ United Nations, 'Convention on the Rights of Persons with Disabilities,' accessed 5 October 2023.

¹⁶ United Nations, 'United Nations Declaration on the Rights of Indigenous Peoples,' 2007, accessed 5 October 2023.