

11 June 2008

Mr Elton Humphrey
Committee Secretary, Senate Community Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Re: INQUIRY INTO SPECIAL DISABILITY TRUSTS (SDT)

Dear Sir

Thank you for your letter of 21 May 2008 extending an invitation to forward a written submission addressing any or all of the issues that may be of relevance to me.

At the outset I wish to acknowledge with appreciation the initiative of Senator Rachel Siewert in presenting her Notice of Motion of 13 May 2008 and to the Senators for passing the motion that has resulted in the establishment of this Inquiry.

In presenting my submission my intention is to address the following aspects in the order indicated:

1. Historical Review of progress to date
2. Statistical data of interest and implementation of SDTs
3. A Case Study
4. Financial Planning and Reporting Requirements
5. Recommendations and Conclusion

Historical Review

On 13 October 2005 the then Prime Minister, the Hon John Howard, in conjunction with the former Minister for Family and Community Services, Senator, the Hon Kay Patterson, announced an initiative to introduce Special Disability Trusts at a projected cost of \$200 million. An Advisory Committee to consult and present recommendations to Government was established. The Government of the day deserves due applause for its recognition that action was required to assist the severely disabled and their carers. The Advisory Committee's brief was to consider the following:

- the definition of '**severe disability**';
- the definition of 'parent' and 'immediate family member';
- the types of care and accommodation costs that the trust can pay for;
- what measures were needed to ensure that the person with disability and parents are protected?

On 20 September 2006, after consultation and due process, the following conditions were legislated for a **severely disabled person** to be the principal beneficiary of an SDT i.e.

1209M Beneficiary Requirements

- (2) If the Principal Beneficiary has reached 16 years of age:
 - (a) the Beneficiary must:
 - (i) have an impairment that would qualify the person for a disability support pension; or

- (ii) be receiving invalidity service pension under part III of the Veterans' Entitlement Act; or
 - (iii) be receiving income support supplement granted on the ground set out in subparagraph 45A (1)(b)(iii) of the Veterans' Entitlements Act; and
- (b) the Beneficiary must:
- (i) have a disability that would, if the person had a sole carer, qualify the carer for a carer payment or carer allowance; or
 - (ii) be living in an institution, hostel or group home in which care is provided for people with disabilities, and for which funding is provided (wholly or partly) under an agreement, between the Commonwealth, the States and the Territories, nominated by the Secretary under subsection (3); and
- (c) the Beneficiary must have a disability as a result of which he or she has no likelihood of working, for a wage that is at or above the relevant minimum wage.
- (3) The **Secretary** may, by legislative instrument, nominate an agreement for the purpose of subparagraph (2)(b)(ii)

Comment

The most critical and essential human element for the basic formulation and implementation of current legislation is centred on the definition of **severe disability**. The respondent wishes to revisit and highlight **severe** disability and its impact on the individual and the individual's carers.

The State of South Dakota's definition based on the **United States Federal Definition from The Developmental Disabilities Assistance and Bill of Rights Act Amendments** of 1994 defines 'Developmental Disability' as:

. . . any severe, chronic disability of a person that:

1. is attributable to a mental or physical impairment or combination of mental and physical impairment;
2. is manifest before the person attains the age of 22;
3. is likely to continue indefinitely;
4. results in substantial limitation in three or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency; and
5. reflects the person's need for an array of generic services, met through a system of individualised planning and supports over an extended time, including those of a life-long duration.

Source: Developmental Disabilities Handbook-University of South Dakota, Centre for Disabilities.

To preview the fifty nine listed disabilities in the booklet in terms of prevalence, ratio, description and characteristics brings the reader to an appreciation of the enormity and vast range of challenges and difficulties confronting people who are severely disabled and their carers.

Often there is a tendency to think of the person with a disability as having only the primary diagnosed disability. Most however have a range of physical, intellectual, neurological and psychological associated problems. Mental health for the person with the disability and the carer is totally understated in the overall considerations of their difficulties.

Ms Mary Walsh, OAM, a tireless advocate over many years for people with disability, in her submission to the CSTDA, very aptly and explicitly remarks on this fact and the contribution of carers — 29 July 2006 (Submission 23).

'Whilst the needs of all people with a disability are acknowledged, it is those with more significant needs, and their family carers, who are the most significantly disadvantaged. The system means they have to struggle with the inadequacies of multi-layers of Government, bureaucrats, deficient reporting and the lifelong stress of caring.'

She also aptly categorised carers who provide incredible service in the caring role, i.e.

- a) 'Life time carers' (cradle to grave)
- b) 'Time-of-life carers' (aged care — generally 5 years)
- c) 'Term-of-life carers' (disability acquired at some time in the persons life, often from trauma, genetics or illness).

While recognising the extreme difficulties and complexity of the task in drafting legislation to satisfy the needs of all concerned, at the same time adhering to statutory requirements currently in place, it appears to have failed the vast majority of those in need. The statement in the introductory document of the implementation process i.e. 'that no one size fits all' solution for people with disabilities and those who care for them is patently true, it is also vindicated by the current lack of up-take and usage of SDT's by those severely in need

This outcome was predicted by prominent legal experts with an understanding of the inherent difficulties within the area of disability. Such warnings and predictions appear to have been comprehended and heeded by those seeking to establish SDTs. Such sentiments as listed below have obviously been taken note of by prospective appointors.

1. The Centrelink/Veteran Affairs concessions for both the Principal Beneficiary and certain living donors mean that the **considerable disadvantage** of a special disability trust eg. its more limited scope, considerable restriction and greater administrative costs, will be seen by many people as the price that has to be paid to gain those concessions.

The summary of the attributes of a special disability trust below **highlights the very restrictive nature** of a special disability trust. It would be most undesirable to set up a trust with all the limitations and restrictions of a special disability trust only to discover the trust did not qualify for means tested pension concessions.

2. If the acquisition of the residence is likely to occur, consideration should be given to the Capital Gains Tax (CGT) and the various land tax rules for exemption for the main residence.

Source: Moores Legal Pty Ltd T 74

The obvious restrictive nature of the legislation has, no doubt, created great reservation for those wishing to avail themselves of the opportunity to assist those for whom they are caring as the path is fraught with numerous uncertainties and difficulties.

Current statistics on the up-take are indicative of this reluctance to pursue and implement SDTs.

STATISTICS ON INTEREST AND UPTAKE OF SDTs

Tabulated below are the statistics on the implementation of SDTs by parents/carers of the severely disabled:

	AS AT 29 JUNE, 2007	AS AT 2 June, 2008
Calls to Centrelink in relation to SDTs	2,300	*
Applications received	213	249
Applications granted Beneficiary Status	120	206
Applications rejected	7	17
Applications withdrawn	32	*
Applications being assessed	54	*
Approvals granted for Trusts	12	*
Rejections	0	*
Intentions to establish an SDT	101	*
Trusts established	12	26 **

- Source: Centrelink. Senator C. Ellison. M.P.

- * Statistics currently being sought by Senator Rachel Siewert

- ** As stated by Mr. Bill Shorten, Parliamentary Secretary for Disabilities.

Radio National –Tuesday 3 June 2008.

Comment

The reluctance to establish SDTs may be due to many perceived difficulties, their restrictive nature, immediate and future financial considerations.

The responses within the Succession Planning For Carers: Summary Report and Consultations — July 2007 (FaHCSIA), adequately states consumers concern and barriers to planning and ultimate implementation of an SDT. Of concerns expressed, 51% were from family members, 29% from disability and carer groups and 16% from specific service providers.

Throughout the consultative process of the Disability Supported Accommodation Program (FaCSIA) of September/October 2007 the major concern of parent/carers was centred on:

CHOICE – where, when and who they live with.

Source – FaCSIA Overhead P 11.

The respondent presents a case study specific to his own family situation for consideration and reflection as presented to the Secretary, FaHCSIA for determination and clarification

CASE STUDY

Re: Special Disability Trusts – Establishment Queries for Clarification

As the father of a 41 year old severely multi-disabled daughter I am seeking clarification and decisions on **three** matters pertaining to whether or not it is in the immediate and future welfare interests of our **severely** disabled daughter to establish an SDT. I wish to have these concerns answered prior to the establishment of a trust while living, or included in a testamentary manner in our Wills.

I furnish the following for your scrutiny.

Name- [withheld]— Name of Principal Beneficiary if a SDT is established

D.S.PENSION No — [Withheld]

TRUST ELIGIBILITY GRANTED 30 March 2007 Centrelink Ref. No [Withheld]

ADMINISTRATION AND GUARDIANSHIP (Unqualified) granted 19 July 2005 SAT (WA)

CAP FUNDING (WA) \$18,000 p.a. approx. (Disability Services Commission)

ITEM 1

CONSIDERATION AND EXEMPTION FROM SUBSECTION 2.8 (1)

Extract from EXPLANATORY STATEMENT:

(Copy attached)

Social Security (Special Disability Trust) (FaCSIA) Guidelines 2006, Section 2.8 sets out the guidelines for what would not be considered to be a reasonable accommodation need for the Principal Beneficiary of a Special Disability Trust. Subsection 2.8 (1) provides that an accommodation need that is for the Principal Beneficiary and is not purchased, acquired or rented from an immediate family member will always be a reasonable accommodation need, whether or not it is related to the Principal Beneficiary's specific disability. **It will only be in case where the accommodation need is purchased, acquired or rented from an immediate family member that it will be necessary to establish a connection between the accommodation need and the needs of the Principal Beneficiary as a result of his or her specific disability.** If there is no such connection then the accommodation need would not be considered to be a reasonable accommodation need for the purposes of subsection 1209N(4).

This connection I wish to establish and furnish the following information.

Our daughter, [], is multi-disabled with complex health problems that are extremely episodic in nature. Attached is a summary outline of this fact.

(Please refer to attachments 1,2 and 3 for []'s physical attributes.)

Current Accommodation

In 1988, to accommodate our daughter's future needs, my wife and I purchased a small duplex very close to shopping facilities; a medical centre; her dental practitioner; hospital; taxi rank; physiotherapy and hydrotherapy facilities; within 100 metres of a bus route and within eight minutes of our home for frequent emergencies that would occur.

The service provider at that time was within eighty (80) metres of the premises. Additional minor alterations were made to the premises in 1991 and an additional extension completed in 2000.

After extensive training with an agency over a period of twelve months, our daughter moved into the residence in 1991. Since then she has always had another Disability Support pensioner living with her, as she cannot be left alone in case of a medical crisis. The persons who have resided with her were selected and nominated by i.d.entity.wa (formerly known as Catholic Care), Cerebral Palsy Association of WA or Disability Services Commission (WA). Our daughter resides in the residence during the week and is brought home on weekends. When no other resident is in residence my wife or I sleep in the house for her protection. On one occasion my wife and I had to sleep in the duplex on alternative nights for eight weeks and on numerous other occasions for less time. Over the last two years her co-resident is a person who was a former support worker of our current Service Provider and who has recently worked for the Mental Health Dept. WA. This person pays \$30 per week to cover maintenance costs. Our daughter enjoys tremendous community support from nearby residents and businesses.

Prior to June 2006 []'s DSC (CAP) funding was \$16,962 pa. For this amount she was receiving 1.5 to 2 hours a week support from the previous service provider. At times no support worker would attend without any notification to [] or us. After a very unsatisfactory report of this service by the DSC monitor engaged to evaluate the service provided, and no improvement in service after the report, we exercised portability of funding. In June 2006 we moved the funding to another DSC approved support agency. Since then our daughter has been supported from 4.30pm to 7.00pm on Monday, Tuesday, Wednesday and Thursday of every week. The support workers even take her to planned hydrotherapy sessions each Thursday. The support workers have never failed to attend and we have been advised that we have a credit balance of support hours still available.

The current Service Provider also provides 24 hour crisis care and is situated within a five minute drive from our daughter's residence should our need for this service arise any time.

Particulars of Residence under Consideration

Location: Duplex — [Withheld]

Purchased: April 1988

Purchase details: Cost \$82,000 — Mortgage Bankwest Loan at 18% interest.

Renovation and Needs Adaptions: 1991 - \$10,000 approx.

Minor Extension with Council Approved Building Concessions for the disabled in 2000 - \$37,000 approx.

Our daughter pays \$75 per week rent to us to reside in the residence. She has the highest level of Medibank Private Insurance Cover necessary due to her complex medical condition. The cost is directly debited against her bank account on a monthly basis.

The projected cost of placing the residence in a Special Disability Trust

An accountant has calculated that to place the property in a Special Disability Trust would incur a considerable cost. With an original initial capital outlay of approximately \$130,000 to house our daughter, in an endeavour to lead her to the greatest degree of independence possible, the costs would be prohibitive as a result of the escalating house costs over recent years in Western Australia. Using the discount method in calculating the Capital Gains Tax (CGT) component, it would be in the vicinity of

\$63,825 each for my wife and myself, if no further income was achieved within the financial year. As a 69-year-old self-funded retiree and my 66-year-old wife about to retire after receiving a very modest taxable income (under \$10,000 pa) the cost of the CGT component payable on placing the property in a SDT is prohibitive.

If in five or six years time we had to place our daughter in full time residential care due to failing health, which is becoming evident and had to sell the property again, the CGT component would be of major consideration when selling it from within the SDT to support her future needs.

It is on the basis, as highlighted on page 2, that we claim that a very definite connection is established why our daughter may reside in this stated premises and pay rent on the premises to her parents if the property is placed in a Special Disability Trust, i.e. condition as stated in Subsection 2.8 (1)

ITEM 2

REASONABLE CARE AND ACCOMMODATION – RESPITE

As carers who utilise the respite services of UnitingCare Crossroads WA, I wish to ascertain if these expenses can be debited against the expense account of a SDT. We have utilised this service in excess of 20 years as it gives fulfilling activity to those in respite while ensuring utmost physical and medical attention to the needs of the participants. No other respite service in WA to my knowledge gives such close attention to this aspect of respite. This caring attention is paramount to our daughter's well being during which we receive this modicum of respite.

Please find attached a copy of the UnitingCare Crossroads WA brochure and Medical Supervision Policy Statement — to which they strictly adhere.

ITEM 3

REASONABLE CARE — MEDICAL

Three years ago, while in respite, [] was taken by train to Kalgoorlie as an educational/ social activity. While in Kalgoorlie she suffered a serious, protracted epileptiform episode. She was immediately admitted to Kalgoorlie Regional Hospital. After consultation between the hospital's medical personnel, it was decided that, after monitoring her overnight, they could not manage her medical problems and it was in her best medical interest that she be returned to Perth the following morning and placed under the supervision of her neurologist. This could only be accomplished by my wife going to Kalgoorlie to collect our daughter, as my wife was the only person who understood her situation. She left at 6am the following day on a Qantas flight, returning with [] by noon.

I wish to ascertain if such expenses can be debited against an SDT account — either for both the carer and the Principal Beneficiary or only the Principal Beneficiary.

Please advise on these three concerns.

Thanking you.

Yours sincerely,

**Brian and Jean O'Hart
Parents and Legal Guardians.**

Attachments:

Explanatory Statement — Social Security (Special Disability Trust (FaCSIA) Guidelines 2006.

[Name withheld] — Medical Condition — Attachments 1,2 and 3

UnitingCareCrossroads WA — Brochure and Respite Medical Policy

Please find attached other submissions relevant to this request.

National Family Carers Voice Secretariat — 27 April 2005

Succession Planning For Carers — FaCSIA 27 November 2006

Disability Supported Accommodation — FaCSIA 19 October 2007

FINANCIAL PLANNING AND REPORTING REQUIREMENTS FOR AN SDT

In brief, listed below are the basic requirements essential in planning and reporting.

Financial Planning

While the reasonable care and accommodation needs as outlined in documentation are very restrictive with many perceived uncertainties, parents/carers and planners will experience real difficulty estimating the amount to be placed in an SDT to generate sufficient income to meet the prospective needs of the Principal Beneficiary.

The unexpended income, after administrative costs and expenditure for the Principal Beneficiary, being taxed at the maximum rate is certainly an inhibiting factor.

This inherent difficulty is adequately expressed by Coleman & Greig, in the special disability trust section of their web pages as:

‘The rules of special disability trusts are strict and complex. In particular, the trust can only pay for ‘care and accommodation’, which may be restrictive in some circumstances.’

This view is endorsed further by a prominent Eastern States Law Firm, Moores Legal Pty Ltd in respect to Control of Funds:

‘The question as to who is to control the funds of a special disability trust or an all needs protection trust is often the **hardest issue** for an estate planner to resolve.’ Source: Moores Legal Pty Ltd T 78

It is also the hardest for present-day planners, planning for prospective Principal Beneficiaries.

Financial Reporting

Reporting Requirements under section 3.1, 3.2, 3.3, 3.4 are as follows:

- Financial Statements must be prepared by a member of one of four approved Accounting Institutes.
- Financial Statement for each financial year to include:
 - i. Profit and loss statements
 - ii. A balance sheet with applicable notes
 - iii. Possible depreciation schedule for each class of asset
 - iv. Compliance with Australian Accounting Standards
 - v. Requirement to give a true and fair view of the trust’s position as at 30 June of each financial year

- vi. A statement that all amounts paid were to meet reasonable care and accommodation needs plus reasonable administration and taxation expenses and that no amount was paid for purposes other than those noted above
- vii. Provide the Secretary with the trust's financial statement each year, as well as a certified copy of the trust's income tax return.
- viii. The trustees must provide to the Secretary a Statutory Declaration to the effect that all the information presented is true and correct in all material particulars.

Auditing Requirements — can be requested within the duration of a 5-year period.

COMMENT

The above requirements to ensure compliance with regulations would present very little or no concern/difficulties to a large not-for-profit organisation as a simple invoice could state, eg.

Care and Accommodation Expenses For The Financial Year 2008-09
 52 weeks @ \$x = 52 X \$x

The other requirements as specified under 3.1, 3.2, 3.3 could be completed on one to two sheets, forwarded to the taxation department and the Secretary with hardly a question asked.

The Care and Accommodation provided is another matter that may be of concern. Any probing by Centrelink in relation to this matter may throw the industry into chaos with undesirable outcomes.

Ageing parent/carers endeavouring to be independent, developing socialisation and numerous other desirable welfare issues for the Principal Beneficiary, may be overwhelmed by this intense administrative and extremely stressful experience. They will be under considerable authoritative scrutiny for suspected minor breaches of statutory regulations.

CONCLUSION AND RECOMMENDATIONS

The respondent wishes to indicate that to this stage all previous communication and analysis has been based on:

Explanatory Statement — Social Security (Special Disability Trust)(FaCSIA) Guidelines 2006.

As from here on in the recommendations made will be referenced to the following documentation that has recently come to hand i.e.
 Social Security (Special Disability Trust)(DEEWR) Guidelines 2008 — 21/4/2008

TAXATION ISSUES

Capital Gains Tax (CGT)

This issue is possibly one of the greatest barriers to parents/carers who have, out of necessity, purchased a residence in the past to house their severely disabled son or daughter. There is also adequate documentary evidence available by prominent legal firms suggesting that, where the SDT will provide accommodation to the principal beneficiary, it is preferable to establish the SDT by Will.

Recommendation.

CGT to be payable by the trust on the death of the Principal Beneficiary or when the trust is wound up for any other reason.

Tax Payable On Unexpended Income Each Financial Year.

Throughout the lifetime of a severely disabled person their condition usually becomes progressively worse and their needs greater. As a result increased funds are required to service this increasing need.

Recommendation:

No tax to be payable on unexpended income to increase capital within the fund to finance an anticipated increase in expenditure for service needs.

- No tax at all payable if the donors are **not** in receipt of any benefits under the Gifting Rules or Age Pension concessions; or
- tax payable at 15c. in \$1 as per super funds and employees salary sacrificing; or
- tax payable at 30c. in \$1 as at company rates.

The current rate of 46.5c. in \$1 makes it appear as though there is yet another surcharge on the severely disabled.

WAIVER NOTICES Section 3

Prospective trustees of an SDT to be afforded the opportunity to have issues, that require a waiver of certain conditions, presented and resolved prior to the establishment of a SDT deed. This aspect in many cases may be essential for accurate planning in terms of the capital placed in trust. Lack of adequate and accurate planning may have significant tax implications.

Recommendation:

That an appropriate process for this to occur be implemented and widely publicised.

REASONABLE CARE NEEDS Division 2.1, 2.2 & 2.3

2.3 What are not reasonable care needs?

(2) The first item in this section cited is –

Examples of what are **not reasonable** care needs –

States:

1. **Food other than food specified by a medical practitioner for the Principal Beneficiary's health**

Therefore I assume that charges as indicated in item 19, which states –

19. **The daily fee charged by an approved provider in relation to the Principal Beneficiary's care and accommodation in a residential care service provided by the approved provider, and any additional itemised fees, which are specifically for the care, needs of the Principal Beneficiary resident in that service.**

will be segregated into **two components** i.e.

- A. The cost of residing in the hostel, group home or similar.
- B. The cost of food while residing in such a facility.

I assume that funding from a SDT will only be entitled to cover the residential cost and **not** for the provision of food/meals. If this is not the case then this aspect is **inequitable and discriminatory** against those living outside approved provider residential care; many of whom are more severely disabled than those living permanently in approved service provider residential care.

Comment

That this issue be addressed and **substantiative equity be afforded to all concerned**.

- Most major service providers providing residential care and accommodation charge clients an amount that will attract maximum Commonwealth Rent Assistance (currently \$107.20 per fortnight). This will be denied substantially to those parents/carers providing accommodation outside this domain. It is therefore **inequitable and discriminatory** in practise.
- Consequential financial difficulties will arise when the Principal Beneficiary has to move to full time provider residential accommodation.
- There may also be inherent tax implications for the Principal Beneficiary in relation to this aspect that requires exploration and clarification.

Recommendation

That a rate be struck, which parents can pay for food from the SDT based on the average cost charged by a number of approved service providers.

SOCIAL INCLUSION

Comment

The previously mentioned factors are impediments and inhibitors in the promotion of social inclusion within the community.

Currently, various committees have been established to investigate difficulties in the area of disability and for carers, i.e.

Inquiry into Support for Carers — chaired by Ms Annette Ellis MP

Social Inclusion Board — chaired by Ms Patricia Faulkner

As stated in the NDS News Up-date — 22 May 2008,

‘Social inclusion is central to the social policies of the Rudd Government.’

Many of the barriers confronting parents/carers that will be highlighted throughout this inquiry, if removed, will go a long way to foster and promote social inclusion.

APPROVED SERVICE PROVIDERS

Recommendation

That a list of all approved service providers be compiled for each State and Territory and made readily available to all interested parties.

EXAMPLES OF WHAT ARE REASONABLE ACCOMMODATION NEEDS

Item 4 states:

'Payment of rental for the Principal Beneficiary's place of residence if the payment is not made to an immediate family member of the Principal Beneficiary.'

Previously in the Explanatory Statement to Social Security (Special Disability Trust)(FaCSIA) Guidelines 2006, Section 2.8 (1) states:

'It will only be in case where the accommodation need is purchased, acquired or rented from an immediate family member that it will be necessary to establish a connection between the accommodation need and the needs of the Principal Beneficiary as a result of his or her specific disability.'

(The respondent currently has a case before the Secretary for determination as previously indicated).

Comment

No doubt there are sound reasons for this measure and they are understandable. However there are occasions in the past and will be in the future when parents have purchased or will purchase, due to special circumstances i.e. in interests of the severely disabled for health reasons and numerous other associated reasons, such as providing immediate care and medical attention.

The Secretary has the authority to waive such a restriction as previously indicated.

Suggestions For Setting Reasonable Rental Limits.

A predetermined percentage of one of the following examples:

- 50, 60 or 70 % of three Real Estate Agents Appraisals (average); or
- 50, 60 or 70% of a certified Valuer's Assessment: or
- 50, 60 or 70% of the Gross Rental Value on which Local Council Rates are struck.

For example, the respondent currently is paying a rate of \$255 per week on the premises in which his severely disabled daughter resides.

Conditions could be considered and applied to the above i.e. if it can be demonstrated that the donors are not receiving any benefits from Centrelink's gifting rules and concessions under the Age Pension thresholds.

This aspect can be easily checked by cross referencing the donors on the annual donor list on the Centrelink database to ascertain if they are receiving any benefit as donors.

RECREATION AND LEISURE ACTIVITIES Item 7 (2.3) (2)

Recommendation

That an amount of \$1,000 be allowable expenditure within the trust for recreation and leisure. Recreation and leisure for the severely disabled has more dimensions to the

disabled person and their carers than the basic concept of recreation and leisure. The physical, mental health and socialisation aspects for the individual are more important in most instances than the recreational aspect. Furthermore little consideration is given in facilitating recreation for the severely disabled. Recent trends in the Perth Metropolitan area are disturbing. As an example:

Riding for the Disabled (Capricorn Club) site has been taken over to build the State's new Basketball Centre and a new Athletics Stadium. Riding for the Disabled has been allocated a new site 34 kilometres away on the periphery of the Perth Metropolitan Region off all bus routes.

Other examples can be given where current facilities are being taken over or demolished to make way for department block developments with very little consideration to replacement of the facility for the disabled.

AVOIDANCE OF SETTING UP AN SDT AS WELL AS AN ALL NEEDS TRUST

It has been suggested in legal circles that due to the restrictive nature of the current parameters of an SDT that an All Needs Trust be established as well.

Comment:

The necessity for carers of the severely disabled to take such a measure is no more than a further burden that they will have to carry. Avoiding this situation should be of paramount consideration in amending current conditions and guidelines.

Conclusion

Thank you for the invitation to contribute to the Inquiry.

As indicated in your letter the Committee may hold public hearings. I wish to indicate that I am most willing to give evidence at any public hearing.

I also wish to indicate that I have no reservations in the Committee Members having total access to all information provided to Dr J Harmer, Secretary, FaHCSIA on 27 May 2008.

Yours sincerely,

Brian O'Hart

