VISION AUSTRALIA RESPONSE TO THE DISCUSSION PAPER ON THE NATIONAL DISABILITY INSURANCE SCHEME RULES

# Different Functions of the NDIS

**Rule 1. The rule may prescribe matters for and in relation to this chapter (relating to the types of assistance for people with disability provided by the Agency). (Clause 17)**

## Question:

* What sorts of general information and referral services should the Agency provide for people with disability who approach the NDIS?

### Response:

Vision Australia recommends that the Agency provide plain English publically available information in the following areas:

* Eligibility criteria and examples of how the criteria operates;
* The application process in a step-by-step guide, including information on how to apply, what information is required and how to get it, and what help is available;
* How to develop a plan, what information will be used, how to engage a specialist assessor, and what help is available;
* What are the review and appeals processes, including what these processes mean, how to appeal a decision, what information will be needed, and what help is available;
* Referral and other information, including what the Agency can offer to people not eligible for NDIS funding.

It is also extremely important that the Agency provide information off the shelf in accessible formats, such as electronic MS Word, audio, Braille, and large print formats. For web based information, we recommend the Agency adhere to web accessibility guidelines and be WCAG 2.0 AA compliant, in line with the Commonwealth Governments commitment for all government agencies.

This is critical to ensure that a person who is blind or has low vision or a person with another print disability is able to access the information using appropriate technology and at the same time as their sighted peers.

We believe the Agency should act as a clearing house for people with disability, their families and carers to access information about the range of services available, where to get them from, consumer groups and support networks. This information must be provided in a complete and unbiased fashion to offer full choice and control to the consumer.

Vision Australia consider that a one-stop-shop web portal would be an important initiative to ensure primacy of information, ease of access and also allow consumers and their agents to access information across the spectrum. This would be similar to the Seniors Gateway proposed in the aged-care sector reforms.

## Question:

* What guidance should the rules provide the Agency about how to support people in referring them to community or mainstream supports, or to other support systems?

### Response:

Vision Australia believes that the Agency must provide information in accessible formats, such as electronic, audio, Braille and large print. For web based information, we recommend the Agency adhere to accessibility guidelines so that a person with limited or no vision is able to get the information they need in the format that works best for them, and at the same time as their sighted peers.

In terms of referrals, we believe the Agency should facilitate contact with a provider of the individual’s choosing. Inter-referrals between systems, community and mainstream supports, equally for participants and those not eligible for direct funding or services through NDIS, should be actively supported or directly referred, where appropriate, to make these connections.

It is important for the Agency to provide information regarding accredited services and their capacity to provide services outside the framework of the NDIS.

Agency staff, with relevant case management qualifications and experience, will assist people with referrals to community, mainstream, or other support systems. Staff should also have an understanding of specialist assessment requirements, functional vision loss, mobility, independent living, adaptive technology and alternate formats.

The establishment of a helpline and online services to provide information on the availability of community, mainstream, and generic support systems (eg Centrelink, Australian Taxation Office, etc) would benefit all stakeholders.

## Question:

* What guidance should the rules provide the Agency about funding of persons or organisations so that those persons or organisations may assist people with disability to realise their potential, and participate in, all areas of life?

### Response:

Vision Australia believes the Rules should assist the Agency to determine the conditions under which an organisation would be funded to deliver a service to people with disability. In a thin market, with consideration of the type and availability of support required and the level of specialist support available locally, specific provisions within the rules could include:

* Block funding of services and supports that cannot reasonably be adapted to a user-pays system, such as libraries for the print disabled, adaptive technology help desk and technical support.
* Case based or block funding of capacity building initiatives, such as specialist training by experts in vision related disability in mainstream local councils and community services, and self-advocacy workshops for consumers.

Whilst it is most certainly the case that many people who are blind or have low vision are completely comfortable and confident with making their own independent choices about the supports they need, we consider that the counter factual must also be supported by the NDIS – people who want and need support from their peers or specialist service providers should have it.

Vision Australia therefore considers that consumers should have the right to have a specialist assessment undertaken by experts in the field related to their disability. The Rules ought to make specific provision for this to occur. We know from our own experience and client feedback, that people new to vision loss and those with degenerative conditions, children and parents in particular, are often unaware of what supports are available to them. We also know from our own intake and assessment processes that every case is different. A seemingly superficial comment by a person who does not know what supports are available to them can contain much insight into areas where support can have a large impact on their engagement and participation in the community.

Our specific proposal around specialist assessment is for the Agency to establish a national panel of assessors, similar to the Job Access panel of assessors in the disability employment area. This would enable adequate safeguards and quality to be built into the administration of the program, for organisations to register and for specific consultants to be duly accredited for the requisite skills and knowledge. This could also potentially enable some of the administrative functions of eligibility assessment and plan development to be effectively outsourced for those who choose to engage the program.

Vision Australia also believes that the Rules should make provisions to ensure that any individual or organisation providing services for people who are blind or have low vision should be accredited and capable of providing documentary evidence regarding service outcomes, quality standards and professional qualifications of relevant staff. Organisations providing NDIS funded services should be subjected to comparable reporting that is publicly available to help deliver reasonable comparisons of service delivered under a NDIS. We also think the Rules should allow for the development of mechanisms for complaints and feedback that have a public reporting element to assist consumers in choosing adequate supports.

# Age

**Rule 2. Age requirements for specific locations within Australia during launch. Clause 22(1)(2)**

## Question:

* Should the rule also set out the types of information the Agency will need to establish that a person meets the age requirements?

### Response:

The proposed NDIS entrance cut-off of 65 years of age continues to be a major concern for people who are blind or have low vision.

Vision Australia has made clear its position that people who do not meet the NDIS age criteria should receive comparable services through the aged care system. Government should address the provision of disability services for senior Australians as a priority. The current system is not capable of delivering blindness and low vision services that keep older people independent and not dependent on the aged care system.

It is feasible that at least one or more NDIS launch sites could include applicants aged over 65 to be assessed for NDIS eligibility and, where eligible, provide funded NDIS support. Trialling this would assist in determining its long term sustainability.

Proof of age should be determined through common forms of identification, such as birth certificate, passport or other accepted means.

For the purposes of the launch sites, eligibility should be determined by age as at 1 July 2013.

# Residency

**Rules**

**3. What alternative or additional criteria may be used to determine that someone is resident in a launch site. Clause 23(1)(c).**

**4. On what date or date in a time period should a person need to be living in a launch location to be considered a resident Clause 23(3)(a)**

**5. How long a person may need to have lived in a particular location to be considered a resident. Clause (23) (3)(b)**

**6. Whether a person needs to continue to live in a launch site to be considered a resident. Clause 23(3)(c)**

## Question:

* What factors should be taken in to account in deciding whether a person meets the residence requirements? What types of evidence are appropriate to determine if a person meets the residence requirements?

### Response:

Issues around proof of residence can arise for people who are blind or have low vision, as they often have no driver’s licence due to their vision condition. There should be flexibility to take this situation into account, such as use of utility bills, photo identification, rental contracts, and rates notices.

There may be situations where people have a legitimate reason for moving into a launch area that should not preclude them from receiving support. People with disability may move for family, work or educational reasons.

People moving out of a launch area, who have already been deemed eligible, should receive support. The numbers of participants would likely be very small in each of these scenarios making it relatively easy to administer.

There should be some flexibility to ensure services can be provided to some people who do not meet residence requirements, such as people on temporary visas, student visas and special category visas. Excluding them from the NDIS would remove the necessary supports to enable them to fully participate in the community.

## Question

* What boundary issues between launch and non launch locations are likely to arise and how could these be resolved in developing the rules?

### Response:

Boundaries around launch locations should be clearly identified and documented so that people can be assessed for eligibility in accordance with the residence requirement.

# Continuity of support

**Rule**

**7. The time period during which the previously existing supports need to have been received, and the programs under which the previously existing supports need to have been delivered, for a person to meet the access criteria and be eligible for the NDIS. Clause 21(2)(b)**

## Question:

* What factors should be considered in deciding whether the NDIS should provide continuity of support to someone who has been receiving assistance under other programs, but who would not otherwise be eligible for NDIS support?

### Response:

The time period specified by Rule 7 should not be less than 3 years prior to the date of application or the date set by the Rules or the Agency for application of s.21.2 (b). People access our services on an infrequent basis, largely instigated by changes in their environment, circumstances or during key life transition points. For example, when a person with vision loss moves home they require orientation and mobility services to learn their new environment and routes to the local shops, bus stops and public transport to work or education. People with vision loss may also contact us episodically to learn how to use new technology to facilitate their access to information, books and social networking

Motivation, frequency and intensity of service and support access depends on a range of factors. Many clients do have a constant support need, such as children, those who lose their vision suddenly, those new to vision loss and those with degenerative conditions adjusting to changing circumstances.

It is not unusual for clients to come in and out of contact over a 3 year cycle. This does not infer that the need for support or severity of an individual’s impairment is less significant. It simply describes the nature of service and support access for people who are blind or have low vision. Vision Australia therefore recommends that the time period for continuity of supports ought to be set within 3 years of the NDIS access request.

It is equally important to recognise that many of the services currently provided by Vision Australia are not contained within a narrow program description of funded services by state, territory or the Commonwealth governments.

Vision Australia has an annual operating budget of $90 million, with $30.3 million coming from government funding and the remainder derived from fundraising, donations, bequests and investments. Therefore, any determination within the Rules for identifying “prescribed supports” should not be limited to Government programs, and scope must be provided for applicants to provide proof of service and support access by other means, such as a letter from Vision Australia. The Rules may facilitate this by stipulating that supports can have been provided by registered providers of supports or supports contained within the NDIS Launch Transition Agencies guidance notes for reasonable and necessary supports.

In our joint response with Vision 2020 Australia to the Draft NDIS Bill (submission 513), Vision Australia has also strongly recommended that the grandfathering provision of s.21.2 (b) be expanded to applicants who have also been diagnosed with an eligible condition consistent with the disability requirements or early intervention requirements of s.24 and 25, and not be restricted to continuity of supports only.

Essentially 21.2(b) would include the words “*or received a diagnosis within the prescribed timeframe*” to enable this expansion.

We have argued that the provision of 21.2(b) recognises that it is unreasonable to create a barrier to access for people with a history of disability service and support based on their age. We believe this same rationale ought to apply to those who, for whatever reason, had not accessed support within the prescribed timeframe.

The provision as it stands would arbitrarily penalise people whose condition did not manifest quickly enough, people who were not able to come to terms with their condition and seek support within the timeframe, and those people who did not know what services were available to them. All of these examples have an equally valid.

Vision Australia considers extending the grandfathering provision to diagnosis is not out of step with the intent of the current provision. It would still be contained within a limited timeframe, applicants would still need to meet all other eligibility requirements at the time of application, and therefore we believe not an unreasonable concession to make. The Rules would then only need to stipulate that proof of diagnosis must be dated within the prescribed timeframe consistent with the service access period.

# Disability requirements

**Rules**

**8. The criteria to be used to determine that the impairment or impairments are permanent or likely to be permanent. Clause 27(1)(a)**

**9. The criteria to be applied to determine that one or more impairments substantially reduce a person’s functional capacity, or their psychosocial functioning, in relation to one or more activities such as communication, mobility, or self-care. Clause 27(1)(b)**

**10. The criteria to be considered in assessing whether and to what extent social and economic participation has been affected. Clause 27(1)(c)**

## Question

* What criteria/factors should be taken into account in determining whether a person meets the disability requirements?

### Response:

Vision Australia strongly supports the use of a functional impact assessment to determine eligibility and believes that this approach is the only suitable method for identifying an applicant’s need for NDIS funded disability support.

A medical or clinical diagnosis alone cannot provide any measure of impact of vision related impairment on an individual and should not be an impediment to one’s ability to substantiate their claim to having a functional barrier to achieving their goals and aspirations because of their disability.

It is important there be a balance of:

* clinical diagnosis (provided by an eye health specialist) and;
* functional impact (using a clear objective comparable tool for a specialist assessment undertaken by a suitably qualified professional, with a thorough understanding of assessments as they relate to functional vision, mobility, instrumental activities of daily living, adaptive technology and communication).

The Rules should take into account the International Classification of Functioning - Disability and Health (ICF), developed by the World Health Organisation for the classification of vision impairment. The ICF takes an individual’s functioning and disability in context, including the social aspects of disability and does not see disability only as a medical or biological dysfunction, by including contextual factors. Since an individual’s functioning and disability occurs within a context, the ICF also includes a list of environmental factors.

Vision Australia is, however, acutely aware that the application of Rule 8 around substantiating permanent impairment is likely to be translated either in the detail of the Rule or in the guidance notes developed by the Agency around visual sensory impairment into a medical diagnosis or clinical measure. Should the need to substantiate visual sensory impairment require some clinical diagnosis of a condition and/or visual acuity and/or field, then Vision Australia is strongly of the view that this benchmark should not be set lower than the World Health Organisation designation of low vision (6/18 visual acuity). This point is further discussed below.

## Question:

* Should there be any guidelines on people being able to provide existing assessments to meet the disability requirements?

### Response:

Vision Australia believes that the Rules should allow for reports provided by a medical or Allied Health professional and proof of eligibility to other government programs to be sufficient. People in receipt of the Disability Support Pension (Blind) should also automatically qualify and move to the planning stage.

## Question:

* What should be considered in developing a rule on the types of persons who should conduct assessments?

### Response:

Vision Australia believes that specialist disability organisations should be able to provide assessments and that the Rules should support this to occur. Specialist assessments by appropriately skilled and qualified individuals and organisations will deliver greater benefits to individuals and the sustainability of the NDIS.

## Question:

* What should be considered in developing a rule on the kinds of assessments that could be provided or undertaken as part of meeting the disability requirements?

### Response:

Vision Australia believes that specialist disability organisations should be able to provide assessments. Assessment tools should have demonstrated effectiveness in measuring the level of need and function. These should be developed in consultation and draw on industry expertise relating to specific impairments.

## Question:

* How can we make sure the rules determine disability on the basis of a functional assessment of what a person can or aspires to do, rather than on the basis of diagnosis?

### Response:

Vision Australia in the most strongest of terms recommends that no medical or clinical diagnosis of visual acuity or field alone would be a barrier to receiving direct NDIS support.

If some medical criteria is required, the Rules should enshrine in law a functional vision loss set at less than 6/18 or 40 degrees from fixation in accordance with the WHO benchmark for low vision.

The rules or guidance notes should determine disability on the basis of a functional assessment of what a person can or aspires to do, rather than on the basis of diagnosis.

To illustrate our point, the International Classification of Functioning (ICF) and its accompanying assessment tools do not provide certainty as to the use of visual acuity as a starting point for assessing eligibility for the NDIS. The WHO International Classification of Diseases (ICD), which complements the ICF, measures the impact of vision related impairment on a scale from 0 (Mild) to 5 (Severe) with corresponding visual acuity benchmarks.

Vision Australia is concerned that the “*severe*” visual acuity benchmark outlined in the ICD (category 2 or legal blindness in the Australian standard) will be used as the first step in the criteria to determine eligibility for funded supports in the NDIS rules or guidance notes for the Launch Transition Agency. According to the ICD, we believe a “*moderate*” benchmark should be applied to assess vision related disability, which begins with a clinical assessment of acuity of less than 6/18 for what is commonly defined as “*low vision*”.

Vision Australia has been advised in many discussions and forums that there will be no acuity or field benchmark hurdle to access for people who are blind or have low vision, and that eligibility will be based on a purely functional assessment. We have continually raised this issue at every step of the process, as this is a critical factor in determining whether or not the NDIS will be a success or a failure for our client group, and whether it is possible for Vision Australia to support the NDIS. We seek certainty in the Rules that will prohibit the Agency in the development of operational guidelines, to inadvertently or intentionally include a barrier to access on medical or clinical grounds, with the use of legal blindness as an implicit or explicit benchmark.

The legal blindness benchmark is most often applied as a first step to accessing eligibility for a range of government programs. Legal blindness is defined in Australia as a best corrected visual acuity in one or both eyes of less than 6/60 on the Snellan Scale or a visual field of less than 10 degrees. This benchmark determines an individual’s access to the Disability Support Pension (Blind), Mobility Allowance, State and Territory Travel Pass schemes, Taxi Subsidy schemes, Mobility Parking schemes, and the Companion Card scheme.

Finally, some people with disabilities may not be eligible on the basis of their disability not being considered permanent or likely to be permanent. This includes for example people with cataracts who may experience significant vision impairment whilst on a waiting list for surgery, sometimes for periods of years. The rules should provide sufficient flexibility to allow people in such circumstances to access funding to address a disability, which without surgical intervention would otherwise be permanent.

**Early intervention**

**Rules**

**11. Criteria for determining if early intervention supports are likely to reduce a person’s future need for supports in relation to disability. Clause 27(1)(d)**

**12. The criteria to be considered in assessing whether a support is likely to mitigate, alleviate or prevent of an individual’s function capacity to undertake communication, social interaction, learning, mobility, self-care or self-management. Clause (27(1)(e)**

**13. Criteria for determining if early intervention supports are likely to strengthen the sustainability of the informal supports available to the participant, including through building the capacity of a carer. Clause 27(1)(f)**

## Question:

* What criteria would be useful for considering the benefits of early intervention for mitigating or preventing deterioration in a person’s functional capacity to undertake activities such as mobility, self-care or self-management?

### Response:

Early intervention services include specialist disability services, but do not necessarily include ongoing personal care.

The criteria for determining whether an early intervention mitigates or prevents deterioration in function should include consideration of whether the service delivers rehabilitative or ‘habilitative’ (eg congenital) outcomes.

Consideration should also be given to whether the service delivers and builds transferrable skills/outputs that an individual can use to ameliorate the effect of their disability on their ability. This includes skill attainment at the time of service delivery and also into the future, so that an individual can perform functions such as moving around the community safely, maintain their employment or undertake activities of daily living to their desired level of independence, and also problem-solve through functional challenges in the future without necessarily requiring support from a specialist agency.

For children:

* Age of onset and when referred
* Diagnosis and level of impairment
* deterioration or potential for improved visual functioning
* Age referred for early intervention
* Any additional disabilities, such as physical or intellectual impairment may impact on the frequency and types of early intervention required
* Changes or progress in abilities across all developmental domains over time (this would give an indication of the child’s rate of learning)
* current level of functioning across all areas of development.

## Question:

* How can the support provided by families and other carers be made more sustainable by early intervention?

### Response:

Vision Australia believes that families and carers should be adequately supported to deliver early intervention support. This should include access to qualified professionals and materials that equip them to deliver support. Additionally, with a focus on supporting informal networks to assist skill development aimed at increased independence, there are often considerably enhanced outcomes for people who are blind or vision impaired.

## Question

* How should the rules support innovative approaches to early intervention and balance this with the need to get the best outcomes for people with disability and for the scheme to be accountable and sustainable?

### Response:

Vision Australia supports innovation in service delivery and for those areas of early intervention service that are without an appropriate or sufficient evidence base there should be flexibility to allow the Agency to pilot or commission research or analysis of particular services.

The Rules should emphasise evidence based services and encourage providers and participants and other stakeholders to provide evidence of outcomes which can be measured. This could be supported by transparent feedback and evaluation processes to substantiate claims on effectiveness.

# Question:

* What criteria should be included in the rules to assist determining if an intervention strengthens the sustainability of informal support?

### Response:

The Rules should support standardised feedback processes from informal and participants supports to assist in understanding the impact of early intervention before and after early intervention services and support is rendered.

## Question:

* What criteria should be applied to determine ‘evidence-based’ assessment of the benefits of early intervention?

### Response:

Criteria to help determine whether an early intervention service delivers demonstrable benefits would depend on the outcome being measured and could include:

* attainment of milestones,
* quality of life outcomes,
* communication and mobility efficacy,
* whether the supports increase or maintain a person’s independence, safety,
* benefit to the community through a reduction in support required later.

Studies commissioned by the sensory sector on blindness and low vision services that can assist in developing the evidence base for early intervention services in the NDIS. These include:

* [Clear Focus The Economic Impact of Vision Loss in Australia](http://www.icoph.org/resources/247/Clear-Focus-The-Economic-Impact-of-Vision-Loss-in-Australia-in-2009.html), Vision 2020 Australia, (2009)
* [Focus on Low Vision](http://www.cera.org.au/uploads/CERA_FocusLowVision.pdf), Centre for Eye Research Australia, (2007)
* **Children & Family Services (Social Return on Investment) -** Vision Australia’s Children and Family Services (CFS) provides training and resources that enable children who are blind or have low vision to increase their choices and reach their full potential in life. CFS supports families of children from birth to school-leaving age, providing individualised support services that facilitate the young person's development and access to education and independence. This includes support in the early years before school with developmental living skills, and during the school age years with braille literacy, technology training, peer support programs and preparing students for the transition into tertiary study and employment. In addition to this direct developmental and pedagogical support, emotional support is also a key feature in assisting children living with blindness or low vision and their parents cope in their caring and parental role. Our SROI analysis found that for each dollar invested in the various CFS services, an average of $12.40 was created in social value. The key driver of this return was the value created by children reaching their developmental milestones in early childhood and during the school years, and the positive effects long term as they move into adulthood.

# Reasonable and Necessary supports

**Rules**

**14. The methods or criteria for deciding which supports will be funded or provided. Clause (35 (1)(a)**

**15. The supports that will not be funded or provided under the NDIS. Clause 35(1)(b)**

**16. The supports that will not be funded or provided under the NDIS for certain participants. Clause 35(1)(c)**

**17. The methods or criteria for assessing the supports that will be funded may also include methods or criteria relating to the manner in which the supports are to be funded and by whom these supports will be provided. Clause 35(2); 35(3)**

**18. The methods or criteria for providing supports may also include methods on how to take in to account compensation payments. Clauses 35(4); 35(5)**

## Questions:

* What methods or criteria should be used to determine those supports that would not be provided or funded by the NDIS, based on the criteria set out in clauses 34 and 35 of the Bill?
* Are there any issues that are not covered by these proposed topics for determining reasonable and necessary supports that should be?

### Response:

Vision Australia supports the NDIS notion of providing supports that meet a participants stated goals, objectives and aspirations and not counting activities as is commonly the case under existing schemes. Setting supports against “outputs”, which essentially counts numbers of activities, hours or participant numbers, provides no indication of whether the supports meet the participants needs against the goals they want to achieve. The framework, as stated in the Bill, is concerned with addressing “outcomes”. This is a positive move that ought to both provide a responsive and flexible approach to assessing supports that also provide identifies the pathway to achieving goals, objectives and aspirations.

Notwithstanding all the other important elements within the NDIS reform and the critical element of eligibility, what will be deemed reasonable and necessary support, is what will essentially determine the success or otherwise of this reform for consumers with disability. Throughout the consultative process since 2010, Vision Australia has consistently argued that reasonable and necessary supports must be goal orientated, and directly linked to the objectives and aspirations of the individual. We are therefore heartened by the broad conception of reasonable and necessary supports set out in the NDIS Bill.

However, we have also emphasised that the typical nature of support for people who are blind or have low vision in contrast with other disability groups, is different in terms of support profiles. Where much of the discussion about disability support has been centred around high intensity daily and non-daily care needs, the profile of people who are blind or have low vision is often infrequent in terms of accessing service and support and in the procurement of aids and equipment to assist with mobility, literacy and communication. While the interaction with service providers may be infrequent, the deployment of skills developed, such as orientation and mobility, and braille literacy, and the utilisation of various adaptive technologies and aids (e.g. long canes, dog guides and magnification and screen reading technologies) are part of the everyday for people who are blind or have low vision. Therefore, in terms of reasonable and necessary supports, there should not be a subordinate prima facie value placed on their services and supports based on a superficial distinction against supports required for other disability groups.

Additionally, while Vision Australia is mindful to emphasise that support needs cannot be inferred by intensity and cost between our client group and other disability groups, we are also careful to point out that this understanding also applies within the same cohort. This is not a homogenous “one size fits all” group. Individuals who are blind or have low vision seeking NDIS support to acquire compensatory skills training for the first time (likely to involve more intense support over an extended period) or those seeking to complement existing skills or to adapt to changing circumstances or environments or to adjust to new technologies (generally of a lesser intensity), the intensity, frequency and cost of service and support access should not be inferred to mean a lesser or more need or higher or lower impact for the individual.

The following two (2) examples can help to demonstrate this:

* A person who uses an electronic refreshable braille display and note taker worth $9,000 to read and write, and another who uses a portable electronic magnifier and computer magnification software worth $1,500 to read and write, if the equipment was removed for both cases, these individuals would lose their ability of independent literacy.
* A person spends 4 terms of intensive computer training to learn how to use a screen reader with various computer applications, and another spends 1 week of intensive training learning how to use magnification software and how to adapt the colour contrast and other desktop settings to optimise the use of their residual vision, should both individuals not receive this skill training, they would both lose the skills to operate their equipment competently and confidently for the purposes for which they need to use it.

Vision Australia therefore urges the Agency, in the development of Rules 14 to 18, to ensure that no barriers are placed that will limit the access to the range of services and supports that people who are blind or have low vision require. Conversely, we also urge specific criteria to be made under Rule 14, to include rehabilitation and habilitation services that are accessed on an infrequent basis or in an intensive manner depending on the needs of the applicant. Specific mention should also be made to include peer and emotional support, as many people with vision loss undergo some period or recurrent period of grief related to their vision loss, and moving through the various stages of grief, can often determine their willingness and ability to engage with skills development and the use of adaptive aids and equipment.

By way of illustrating the types of likely support needs of people who are blind or have low vision that we believe are reasonable and necessary, Vision Australia can offer our current suite of core services as an example. Our services that are enablers to life change for individuals who are blind fall into three categories:

*Enhancing access to information*

* Braille – braille proficiency enables a lifetime of learning for people born blind or who lose their sight at an early age. For adults who are blind or have low vision should have the opportunity to learn braille later in life and have access to the many benefits it provides.
* Alternate Format Production – making available useable accessible information in format of choice, such as Braille, audio, large print or electronic, enabling people to go about their daily lives.

*Making the most of technology*

* Assistive Technologies – by evaluating, advising on and supplying a large range of enabling technologies from simple magnifying glasses to sophisticated Closed Circuit TVs, Vision Australia is able to minimise the impact of sight loss for each client.
* Training – enabling our clients to use computers and assistive technology provides them greater opportunities for employment, learning and reading.

*Being Part of the Community*

* Peer, Emotional and Social Support – sharing concerns with an empathetic and experienced supporter enables the difficult first steps to be taken for any client, their family or carers, whatever their individual circumstance.
* Children’s Services – a range of services which prepares each child for key milestones in life such as school, sport, recreation, tertiary education – whatever – nothing is a barrier and anything is possible.
* Low Vision Clinics: a rehabilitative program of activities developed for each individual client to enable the most to be made of their remaining vision. The client develops a greater understanding of the impact of their particular vision loss and what possibilities are available.
* Independence in the Home and Community: practical skills and tips which remove the challenges of day to day living for vision impaired people making things just a little easier!
* Seeing Eye Dogs, Orientation and Mobility: the ability to move throughout the community independently opens the world of possibility for each client – greater confidence removes many a barrier to being part of the community – whether it be at work or school, partaking in social activities or using public transport.
* Recreation: social interaction, sporting activity and personal pursuits don’t stop because of vision loss – Vision Australia puts our clients and their families and carers in touch with a variety of social and recreational activities.

Vision Australia also notes that Rule 17 can make provision to require additional safeguards for high risk services to ensure that adequate protections are in place to assure quality and that only practitioners with the requisite qualifications and accreditation are delivering the service.

We are of the view that Allied Health services such as occupational therapy, orthoptics, physiotherapy, counselling and orientation and mobility, ought to only be delivered by trained professionals, and we believe that Rule 17 should ensure this occurs. The Rule may itemise the types of services that can only be performed by registered providers of these services where their registration requires certain accreditation for its practitioners, and/or for individual providers to register their credentials before a participant is able to purchase their service. While Vision Australia is in favour of reducing the burden of proof and regulatory control for lower risk services, we believe that these critical services and supports should have the safeguards in place for the benefit of consumers.

# Management of Plans

**Rules**

**19. Criteria for determining whether a participant managing a matter would present an unreasonable risk to the participant. Clause 44(3)**

**20. Particular matters within a participant’s plan that must not be managed by the participant. Clause 44(2)(b)**

**21. Circumstances which would require a review of a participant’s plan to be automatically triggered. Clause 48(6)**

## Questions:

* What criteria should be used by the Agency in deciding whether there is an unreasonable risk for the participant in self-managing funding?
* What flexibility should a person have in making changes to their support arrangements without requiring a review of the plan?
* What circumstances should trigger an automatic review of a person’s plan?
* What matters within a participant’s plan must not be managed by the participant?
* How can the concept of ‘dignity in risk’ inform the development of these rules?

### Response:

Plan management providers should fully disclose and explain, in an ethical way, the impact, expectations and responsibilities inherent in the plans.

Vision Australia believes there are situations where service providers should be able to manage plans for participants.

Evidence provided to the Senate Community Affairs Committee Inquiry into the draft National Disability Insurance Scheme Bill by Vision Australia’s Brandon Ah Tong on 21 February 2013 is as follows:

“*We have made the point in previous submissions that there need to be adequate safeguards in place to ensure adequate governance and administration and that in the operation and processes of those types of service provision, such as plan management providers, there is a level of independence and that consumers of those services can be assured that they are getting advice not only from the organisation itself but also more generally.*

*As a service provider, Vision Australia are plan managers of approximately 60 community aged-care packages. This is particularly in the aged-care area and for people with multiple disability and who are frail aged. We have about 60 packages that we manage, and we do that quite successfully. Some of those services are provided through Vision Australia's suite of services, but predominantly those things are sourced outside, through the community and with other providers as well. The point there is that, as long as there are guidelines in place, we do have a history to point to, to say that that can occur. The factor that we have a long history of expertise is also something that should be taken into account. That history and that influential expertise is critical in having the knowledge to assist people to find out and get those supports.*

*The second thing which speaks to this point is that, around assessment, we also have disability employment services, and we have adaptive technology consultants who are on the national panel of assessors. This is in the employment area. The argument could be made that a service provider should not also be a panel assessor, but we do have those consultants in that area. The safeguards around the national panel of assessors are such that we have to prove (1) that we have people that have the expertise to do the job; and (2) that there are adequate safeguards in place to make sure that they are providing advice and options for the purchase and procurement of adaptive technology not only within Vision Australia but also elsewhere*.”

Vision Australia submits the Rules provide the flexibility to allow a service provider to undertake plan management – with the necessary consumer protections in place.

There must be sufficient information provided to formulate a plan. The Rules that govern their plan must be clear. However, there should be inherent flexibility within the process for the person to exercise substantive choice. Participants should be afforded the flexibility to accommodate a reasonably broad range of changes in their life without requiring a review of their plan.

We concur with the Australian Blindness Forum that “*automatic reviews should occur:*

* *when advice is received that the person no longer meets the eligibility criteria;*
* *when a person changes address as this is a major transition and additional, interim or revised supports may be required;*
* *when a person is approaching major milestones in life (eg transition from primary to secondary school, transition from secondary school to post-secondary options, transition to aged care system, etc); and*
* *when there is a significant change in health status*.”

# Information sharing

**Rules**

**22. Prescribing State or Territory laws under which a person would not be required to provide information to the Agency. Clause 58(2)**

**23. Making provision for the Agency to disclose information in the public interest. Clause 66(2)**

**24. Making provision for the Agency’s CEO to disclose information to the head of a Commonwealth or State or Territory authority. Clause 67**

## Questions:

* Under what circumstances would you consider it reasonable for the CEO of the Agency to disclose information to a Commonwealth or state or territory authority?
* Are there any other protections for information that are not covered?
* How do we strike the right balance between making sure people don’t have to repeat their story and personal information, and making sure people’s’ privacy is respected at all times?

### Response:

An individual should provide the authority or consent for the disclosure of information. The individual should have the right to be informed this activity is occurring and any reason/s for this, consistent with provision of existing privacy law. The Agency may disclose or share information in relation to a suspected commission of a crime.

Individuals should be enabled to obtain relevant information in a way that is lawful, secure, can be done independently, and can be verified by the individual.

To assist the Agency and its staff, relevant information should be able to be stored, provided to or accessed by staff appropriately and with the consent of the individual or their nominee.

# Registered providers of support

**Rules**

**25. Criteria for registering or revoking the registration of a service provider to deliver supports or a class of supports, including whether compliance with safeguards or quality assurance standards and procedures or qualifications of employees is required. Clauses 70(1)(d); 72; 73(1)**

**26. Prescribing the consequences of registered providers failing to comply with the NDIS Act, regulations or rules. Clause 73(2)(a)**

**27. The requirements for registered providers including governance, business and accounting practice. Clause 73(2)(b)**

**28. The obligations of registered providers in relation to the monitoring of compliance, complaints handling and auditing requirements. Clauses 73(2)(c); 73(2)(d); 73(2)(e)**

## Question:

* What would be appropriate criteria for registering a service provider to deliver different types of supports?

### Response:

Providers should be required to offer information on services, the supports they intend to provide, their locations and the qualifications of their staff who may deliver that service.

Vision Australia refers to our response to the Regulation Impact Statement issued by the Council of Australian Governments **(ATTACHMENT 1)**.

## Question:

* How can the Scheme ensure that providers don’t have to go through a lot of red tape, while also ensuring that services are of a standard and quality to best support people with disability?

### Response:

We strongly believe that participants and stakeholders should have a high level of certainty and comfort in the level of service they can expect to receive.

For service providers red tape could be minimised through facilitating systems that:

* Register once
* Align with ACNC requirements
* Minimise additional reporting requirements for current service providers who provide services such as through aged care, health
* Nationally consistent quality standards (including standards for delivery of services including skills development, training, habilitation and rehabilitation) that are supported by sound compliance mechanisms and deliver outcomes that are comparable.

## Question:

* What registration information should the agency collect from registered providers of supports that will promote the policy objectives of the NDIS Act to enable people with disability to exercise choice and control?

### Response:

Registration information that would promote choice and control include:

* Range of services
* Location of services
* How services are delivered (eg domiciliary, centralised location, FIFO)
* Qualifications of staff
* External accreditations
* Relevant discipline requirements as specified by professional bodies or boards
* Complaints and review mechanisms
* Consumer or client support
* Referral processes
* Costs
* Testimonials.

What registration information should the agency collect from registered providers of supports that will build data for public evidence based decision making?

Criteria for registration should include:

* Whether the service is a high risk
* Comparable outcomes – so that there is a fair comparison (apples with apples)
* Range of services
* Size of organisation (i.e. operating budget, number of staff)
* Number/type of assessments provided
* Number/type of training programs provided
* Service quality outcomes
* Case studies and testimonials.

**Children**

**Rules**

**29.Criteria for appointing someone other than the person with parental responsibility to act on behalf of a child. Clause 74(6)(a)**

**30. Criteria for deciding whether a person managing the funding for supports would present an unreasonable risk to the participant (child). Clause 74(6)(b)**

**31. Criteria to use when making a determination as to whether a child is capable of making decisions. Clause 74(6)(c)**

**32. Criteria for determining who has parental responsibility when there is more than one potential person. Clause 75(4)**

**33. Prescribe other duties to support decision-making by the child or give appropriate weight to the views of the child. Clauses 76(4)(a); 76(4)(b)**

## Question:

* What criteria would a decision-maker need to take into account to appoint someone other than a parent to act on behalf of a child or young person?

### Response:

The relevant legal parameters dealing with these matters should be taken into account.

## Question:

* What criteria should be considered in deciding to exclude a child or young person under the age of 18 from being involved in decisions about the support they receive?

### Response:

Consistent with existing law.

## Question:

* What additional supports should be given to a decision-maker to ensure that a child or young person under the age of 18 is involved in decisions about the support they receive?

### Response:

There should be adequate means to allow an appropriate and acceptable level of self-determination by children and young people.

Responsible decision makers should be adequately equipped to inform and advise and support their children to make decisions.

All relevant information and assistance should be made available to parents and other persons responsible for children and young persons in the performance of their responsibilities, consistent with children and young person’s legislation.

## Question:

* What additional supports should be given to a child or young person under the age of 18 to ensure that they are involved in decisions about the support they receive?

### Response:

Consistent with existing law.

## Question:

* What additional supports should be given to a parent or guardian to ensure that a child or young person under the age of 18 is involved in decisions about the support they receive?

### Response:

Parents and others responsible should be adequately equipped to inform and advise and support their children with decision-making where appropriate. This is consistent with Articles 12 and 13 of the United Nations Convention on the Rights of the Child.

## Question:

* How can we best reflect the fact that as children and young people with disability get older, like all children and young people, they may want to have more say in what they do, and the care and support they receive?

### Response:

Vision Australia supports the rights of children and young people to be supported and to exercise maximum input to decision making. Where young people (i.e. those aged 16 and 17 years) demonstrate competence and maturity they could be afforded arrangements more in line with adults. This could be discussed with the Agency and, where appropriate, parental permission obtained.

## Question:

* What is the best way for children and young people to be encouraged to express their views about the support that they receive?

### Response:

Nil response.

## Question:

* How can we best ensure that the views of children and young people under the age under 18 are regularly reviewed without being obtrusive?

### Response:

Vision Australia believes the relevant State and Territory Child Protection legislation should be observed and that there is scope for the recently announced National Children’s Commissioner to provide their expertise in relation to these matters.

The Agency should develop appropriate mechanisms and take advice from relevant bodies to support the views of children and young people being included.

Parents and responsible persons should be able to request a review of plans at any time.