

Victorian Parliament Family and Community Development Committee Inquiry into Social Inclusion of People with a Disability

Submission from Deakin University Centre for Rural Regional Law and Justice

Introduction

The Centre for Rural Regional Law and Justice ('the Centre') is a research centre located in the Law School of Deakin University. Its mission is *to enhance access to improved justice systems and services for rural and regional Australians through research, education, engagement and advocacy.*

It pursues its mission through undertaking applied research that draws on a breadth of academic disciplines, through acting as a forum to inform and share knowledge with communities and key organisations, and through delivering services to inform, advise and support government, communities and industry in the development of provision of 'best practice' law and justice related services, programs and policies, impacting on rural and regional Victoria.

This role includes providing an effective regional voice on law and justice issues to government, and it is in this capacity that the Centre makes this submission.

This submission focuses on the Inquiry's Terms of Reference from the perspective of how they impact upon people with disabilities in regional and rural Victoria, within the context of their access to law and justice. In general, we have not commented on issues where we are not aware of a specific regional and rural dimension, and our emphasis will generally be on the law and justice aspects of the particular term of reference.

If we do not comment on a particular issue or aspect of a term of reference, it is in no way an indication that the Centre sees it as unimportant to Victorians with a disability in regional and rural communities, but rather that we do not

see the issue as impacting differently in those communities than in metropolitan areas or having a particular law and justice dimension to it.

General points about social inclusion and rural and regional communities

The Centre's submission is underpinned by a fundamental belief in the individuality of all rural and regional communities. Each community has its own characteristics, its own strengths, its own needs. This means there can never be a single "regional" response to social and justice issues.

For people with a disability living in regional and rural communities, solutions to social inclusion must be developed in ways that build on and extend the unique strengths of those individual communities. Programs must be developed, and resources allocated, in ways that involve the community meaningfully rather than in ways that have been, and are seen to be, forged in a disconnected, dislocated capital city – or even, for that matter, in a large regional centre that has little in common with a small rural town.

Within that context, the Centre stresses the importance of recognising that regional and rural towns need to be understood in terms of both their needs and their capacities. Needs inevitably arise when services and supports are far away, and where transport is infrequent, expensive or not available at all. However, those communities also often have their own amazing internal resourcefulness and capacities. Social infrastructure can be strong, and opportunities for meaningful economic and social participation can be rich, although sometimes largely unexplored.

Responses to Inquiry Questions

3.1 What needs to happen to ensure that people's individual disability and experience are accounted for in efforts to increase their social inclusion?

If social inclusion is to be maximised for people with disabilities in rural and regional communities, the unique experience of living in those communities, and of their location, needs to be understood. The exercise of legal rights and legal capacity can be extremely difficult for any person living in a regional and remote area, and living with a disability will typically exacerbate this. Access to justice services in rural and remote Australia across most aspects of law is limited – whether it be courts and diversionary justice services in relation to criminal law, alternative dispute resolution mechanisms in relation to consumer, civil and family law, or simply information about the law – and where this access is limited, the chances that the person will encounter legal problems and end up dislocated from their community because of this is heightened.

As discussed elsewhere throughout this submission, disability support models that are person-centred, and that allow the person and their needs to be understood within the context of the communities of which they are a part, are essential to enabling social inclusion to be realised, especially in rural and regional communities. It is encouraging to see the platform for such approaches already set out, in a service context, in the launch site of the National Disability Insurance Scheme (NDIS) in Victoria's Barwon Region and, legislatively, in Victoria's *Disability Act 2006*.

But, while understanding the person in the context of their individual needs and their connections to their community is a critical component of this, so too is understanding the needs of the communities themselves. In regional and rural Victoria this means looking at the ways in which those communities' infrastructure can be strengthened, and at how their vital contribution to Victorian and Australian social, economic, cultural and political capital can be better recognised.

Rural and regional towns have historically been an important mainstay of Australian life and, while the large urban cities have become more prominent in much of the popular and political narrative about what it means to live in Australia, the role and place of regional and rural communities is still a critical, if now often untold, part of that narrative.¹ This means that we have to find ways to enable regional and rural communities to continue to thrive, or thrive again, within the nation's changing social and economic landscape. Still almost one in three Australians live in a regional or rural town. Neither Australia nor Victoria can really claim to foster social inclusion if around 30 per cent of its citizens are left out of the story.

The law and justice dimensions of this challenge are outlined in considerable detail in the Centre's publication, *Postcode Justice: Rural and Regional Disadvantage in the Administration of the Law in Victoria* (Richard Coverdale, Deakin University, July 2011).

3.2 How should 'social inclusion' for Victorians with a disability be defined?

'Social inclusion', in its broad sense, is important to a person's capacity to exercise their legal rights, to enjoy equality before the law and to access justice on an equal basis with other members of the community.

It is generally defined, albeit sometimes somewhat controversially, as embracing such concepts as "equality of opportunity and participation in the rudimentary and fundamental functions of society"².

¹ See, for example, Judith Brett, *Fair Share: Country and City in Australia*, in Quarterly Essay, (42) 2011, pp 1 – 59 for an exploration of the changing role of regional and rural communities in Australian social and political discourse.

² Arie Rimmerman, *Social Inclusion of People with Disabilities: National and International Perspectives*, Cambridge University Press, 2012, p 35

For a definition of 'social inclusion' to be relevant to rural and regional Victorians with a disability, the individual community-centric nature of inclusion must be captured. That is, it must be a definition that allows inclusion to occur in different ways in different communities and for inclusion to feel real to the person and to the community, it must happen within that community's own frameworks and inclusion paradigms, rather than those of other, different, communities.

The ways people participate, connect and interact are critical to their social inclusion. But it happens differently in different contexts and in different communities. Some of the more obvious ways it happens are through participation, alongside other members of the communities, in leisure, sport, work, and education. Some of the more subtle ways it happens is through historical connection to the community, or through identification with particular defining characteristics of the community. How these things are instantiated and defined, and how their relative importance is weighted, is very different from one community to the next.

A definition of social inclusion must accommodate and foster these differences.

A lot of academic research in this area has arguably to some extent missed this point. It often asks questions that measure social inclusion against pre-defined standards that might not be of equal relevance across all communities. For example, a three-year study of a range of outcomes for people with disabilities moving from institutions to the community in the United States, measured their social inclusion and integration by asking questions about how often the person went out, although the study also asked questions about close friendships and appeared to conceptualise friendship in ways that seemed to have a social inclusion element to them.³ While these may well be important elements of social inclusion, research rarely, if ever, seems to consider the ways in which they will be nuanced, weighted and realised differently in different communities, even though the complexities of individual choices about social inclusion are commonly acknowledged.⁴

While these issues are more to do with how social inclusion is measured, and the questions that researchers ask to determine the extent to which it is happening, rather than how it is defined we urge the adoption of a definition of social inclusion that is likely to invite a more individual community-specific application.

³ J W Conroy, A Fullerton and M Brown, *Final Outcomes of the California 3 Year Quality Tracking Project*, Report Number 6 of the Quality Tracking Project for People with Developmental Disabilities moving from Developmental Centers into the Community. Centre for Outcome Analysis, Pennsylvania 2002, p 41.

⁴ Angelo Novak Amado, Roger J Sutcliffe, Mary McCarron and Philip McCallion, *Social Inclusion and Community Participation of Individuals with Intellectual/Developmental Disabilities*, *Intellectual and Developmental Disabilities*, Oct 2013, Vol 51, Issue 5, p 365

Social inclusion can, in a broad sense, be seen as connected with such concepts as participation, involvement and a sense of "belonging" that comes typically through a sense of shared identity with a particular community. It is important to stress that social inclusion is something that happens "naturally", rather than through a particular organised programme, even though a programme may need to be put in place to facilitate social inclusion in the early stages.

Therefore, the Centre would support a definition of social inclusion for people with a disability that has the following elements:

- Reference to involvement, participation and shared community identity,
- Reference to these things happening as part of the natural internal fabric of the community rather than through externally facilitated processes,
- Recognition that these things happen in ways that are shaped and expressed differently in different communities.

3.3 What is the difference between concepts of 'social inclusion' and 'participation' in the context of people with a disability?

While it is always important to avoid becoming overly focussed on the nuances of definitions, and while terms tend to be used slightly differently by different people and in different contexts, the Centre generally sees 'social inclusion' as referring to the things that happen within communities to enable participation. Societies are (or are not) to varying degrees inclusive and people with a disabilities do (or do not) to varying degrees participate.

In terms of law and justice issues impacting on people with disabilities in rural and regional Victoria, this is largely about the availability and accessibility of legal services, including lawyers, courts, alternative dispute resolution services, and various community-based programs that can help keep people with disabilities who offend or who are at risk of offending out of prison. If these services are not locally available and locally relevant to members of the community who have a disability the consequences are inevitably socially dislocating. This can happen not just in the obvious sense of the person needing to leave their local community in order to access the services they need, but the absence of those services can mitigate against the person's opportunities to participate in other ways, too, such as:

- Experiencing greater problems as consumers of goods and services, such as financial hardship and debt, as a consequence of a lack of consumer rights information and dispute resolution opportunities,
- Experience greater family breakdown as a result of lack of family law and Children's Court services,
- Experiencing a greater likelihood of custodial or restrictive sentencing, or sentencing options that require the person to leave their local community, as a result of lack of diversionary services and community based sentencing alternatives,

- Difficulties accessing lawyers and therefore a greater likelihood of experiencing the disadvantage of self-representation in legal matters.

All of these problems are significant for anyone living in rural and regional Victoria, but a person with a disability is likely to experience many of these matters even more acutely. They are just a few illustrations of the ways in which locally available justice services are critical to a socially inclusive community and, therefore, to the participation of people with a disability within that community.

3.4 What does social inclusion for people with a disability look like now?

There is, at this stage, very little available data on the extent to which regional and rural communities are social inclusive of people with a disability, particularly in terms of law and justice issues.

However, the Centre has undertaken research into the administration of justice in these communities more broadly and identified a number of areas in which disadvantage is experienced⁵:

- Proximity of courts
- Lack of access to Specialist Magistrates' Courts
- High incidence of conflict of interest matters arising for lawyers in regional communities, affecting their ability to provide a service to local clients
- Lack of consideration of regional issues in the development of legislation
- Lack of reflection in court orders and penalties of the differing circumstances of people living in regional areas
- Lack of local services and programs, including programs of the Magistrates' Court and court-related assessment and reporting services, adversely impacting on justice system outcomes for people living in regional areas

It can be assumed that these problems impact on the social inclusion of people with a disability at least as much as they impact on anyone else and, in many cases, probably more so.

This does not mean that social inclusion for people with a disability in regional communities is always at a disadvantage. Regional communities can sometimes contain incredible social infrastructure, and this can sometimes achieve a lot in fostering social inclusion and in enabling the participation of community members, including those who have a disability, in the fabric of the

⁵ Richard Coverdale, *Postcode Justice: Rural and Regional Disadvantage in the Administration of the Law in Victoria*, Deakin University, Centre for Rural Regional Law and Justice, 2011, p 13

community. The sense of communal identity and communal responsibility can be much stronger in rural and regional communities than in urban areas.⁶

This sort of community infrastructure can sometimes be immensely important in enabling the civil and political rights of its citizens, through sometimes disarmingly simple things such as community members' readiness to look out for one another, and to accept people for who they are.

Further, practices that foster the participation of people within a rural community can themselves strengthen the community as a whole, through encouraging members of the community to volunteer, to work together, to develop management skills, and to connect with one another.⁷

In thinking about social inclusion for people with a disability in rural and regional communities, and what it now looks like, it is therefore important to keep these things in mind, and to pursue opportunities that will build on the uniqueness and strengths of those communities and on ways in which they organise themselves and include their members.

4.1 What are the barriers to meaningful social inclusion for Victorians with a disability?

The barriers to meaningful social inclusion experienced by people with a disability in rural and regional Victoria in terms of law and justice issues are, in the main, those that emerge from the areas of disadvantage outlined in our answer to question 3.4 above, and can be generally characterised as a lack of locally available law and justice services.

It is important to note too, however, that limited (or sometimes non-existent) access to disability-related supports and services will also be a critical factor in this regard.

The absence of each, exacerbates the problems of the absence of the other. That is, where a person has little access to law and justice services, the problems they encounter in not having access to sufficient disability-related support will be greater. The person's difficulty in negotiating the world around them, arising from the lack of support available to them, will be intensified by inadequate legal infrastructure which would otherwise better enable them to realise their rights as consumers and as citizens. Conversely, the lack of access to courts and legal services is made worse when there are not hands-on disability supports available to help mitigate that disadvantage.

⁶ Richard H Fowler, *Rural Characteristics and Values: A Primer for Rural Teachers from Non-rural Backgrounds*, National Teacher Education Journal, October 01, 2012, Vol 5, No 4, p 77

⁷ Mark Shucksmith, Janet Shucksmith and Joyce Watt, *Rurality and Social Inclusion: A Case of Preschool Education*, Social Policy and Administration, Vol 40, No 6, pp 689-90.

All of these impact enormously on social inclusion. They strike at the core of what it means to participate in society and to engage with its networks, its processes, its comings and goings.

While distance and remoteness is clearly an important aspect of this, it is not the only aspect. As noted earlier throughout this submission, regional and rural communities are all unique. Each has its own characteristics, its own strengths, its own social “personality”. The supports and services available to people within those communities must be relevant to this. That is, it is not enough to just build small copies of urban-based service models in regional communities. The models must be built with the community, and in ways that reflect its character and uniqueness.

In this sense, then, the Centre stresses not just the accessibility of justice-related and disability-related supports as critical in maximising social inclusion for people with disabilities in regional and rural Victoria, but also, and equally, the relevance of these.

4.2 In what ways do Victorians with a disability participate in the economic, social and civil dimensions of society?

People with a disability participate in the economic, social and civil dimensions of society in all the same ways that other Victorians do. This is of course also true for Victorians with disabilities in regional and rural communities. Sometimes the opportunities for that participation is limited by factors such as those discussed in our answer to question 4.1 above, but the dimensions of participation do not need to be different or limited simply on the grounds of having a disability.

As noted in our answer to question 3.2 above, where we discuss the importance of defining social inclusion in a way that invites a recognition of the different characteristics of different communities, and therefore of the different ways in which social inclusion can be manifested, it is important to recognise that participation does not happen in just “one way”. It is important to keep this in mind when tools are developed for measuring people’s social inclusion and participation.

Similarly, we have to be careful that we do not develop legal institutions and conventions that are built solely out of an urban, white, able-bodied, intellectually conceited notion of how people participate economically, socially and civilly.

For example, notions of conflict of interest in organisational governance can sometimes have less meaning in some indigenous communities than in Anglo-white communities.

This suggests a need to be open-minded about the ways in which a community might facilitate the participation of its members and, therefore, about the ways in which the law should enable, prescribe and proscribe that participation. It is always worth considering the extent to which the laws and

parameters around economic, social and civil participation, typically developed in an urban context, are relevant to this or that regional or rural community and to the people with a disability who are part of it. Participation is a dynamic phenomenon, borne out of a social inclusive community. Differences in ways of being inclusive will therefore, of necessity, lead to differences in ways of participating.

4.3 What do you see as the emerging issues for Victorians with a disability over the next 20 years and how might these influence their social inclusion?

For people with a disability in regional and rural communities, and in the context of issues to do with justice and the law, some of the most important issues we see as emerging over the next 20 years, which are likely to impact on social inclusion are:

- The continuing emergence of technologies that allow remote access to services and that, in so doing, provide both greater opportunities for people in regional and remote communities to get the information and support they need as well as greater risks that the need for face-to-face services and information will be less recognised.⁸ This can be devastating for a person with a disability who may be restricted in their capacity to use those technologies as well as in their mobility to get to distant service outlets.
- The changing demographic of regional and rural Victoria, seeing some centres and towns expand (such as through the “sea change” and “tree change” phenomena) while others decline, and the ways in which supportive infrastructure grows, or fails to grow, or vanishes altogether, with, or as a result of, those changes.
- The continuing and growing need to meaningfully apply anti-discrimination principles in a context of neo-liberalism and the impact this has on people with disabilities and their right to work and to participate as economic equals in communities, especially in regional and rural areas, that live under increasing pressure to “tighten the belt”.

4.4 How effective have awareness campaigns been in improving social inclusion for people with a disability in Victoria?

Possibly one of the most important and effective initiatives in promoting disability awareness in Victoria’s regional and rural communities has been the RuralAccess program of the Department of Human Services. Its community building focus, locating workers within regional and rural communities and working with local infrastructure to foster disability awareness and inclusive practices within those communities, reflects an important and typically effective approach to awareness raising.

⁸ See, for example, Bridget Amelia Harris, *Just Spaces: Community Legal Centres as Places of Law*, Doctorate thesis, Department of Criminology, Monash University, 2013.

From the Centre's perspective, disability awareness must encapsulate a recognition of equality before the law for people with disabilities in rural and regional communities. This means raising an awareness of the rights of people with disabilities as citizens and as economic, political, social and civil participants within those communities. It means that communities must also develop an awareness of their responsibility to be inclusive at the local level. It also means, more broadly, that governments and industry must provide the local infrastructure necessary to enable people with disabilities to learn about and realise those rights in rural and regionally. The Centre is not aware of any work that has been done on this issue specifically, or of any measures of outcomes in relation to equality before the law, in awareness-raising campaigns or community building initiatives conducted so far, including through RuralAccess.

4.5 How can social inclusion and the participation of people in the community be effectively measured?

There is, perhaps unsurprisingly, no universally accepted measure of social inclusion and community participation. As recently as late 2013, researchers noted that, in the domain of mental health, there is a range of tools used for measuring social inclusion but an absence of consensus about which ones, if any, are really effective and rigorous in telling us how well, or how poorly, people are being included.⁹

As noted in our answer to Question 3.2 above, the Centre stresses the importance of recognising that communities are all different and that the ways in which people participate in them is different also. This means that measures of social inclusion and participation must be able to adapt to these differences, and must be careful to avoid looking at participation and social connectedness from an urban-centric perspective.

People's social inclusion and their legal equality are, to a large extent, mutually dependant. That is, a person realises their legal equality, their rights to citizenship, through participation in the communities of which they are a part. But sometimes, especially when a person is likely to experience discrimination and exclusion, such as through having a disability, there is a need for legal mechanisms to enable that exclusion to be challenged when it occurs. The relationship between social inclusion and legal equality is therefore a close and dynamic one.

So, while effective measurement of social inclusion and community participation involves looking at how that particular community functions and at how people participate within it, it also must involve looking at the extent to which mechanisms are in place to enable that inclusion and participation for everyone, particularly in this instance people who have a disability. While the

⁹ Tim Coombs, Angela Nicholas and Jane Pirkis, "A Review of Social Inclusion Measures" in *Australian and New Zealand Journal of Psychiatry*, 47(10), September 2013, p 916.

existence of those mechanisms is not in itself an indicator of social inclusion, it is a necessary condition to it happening.

We recognise that these are not in themselves measures of social inclusion. Rather they are issues to keep in mind when determining what those measures should be.

4.6 What tools can be used to determine if there have been improvements or changes in the levels of social inclusion for people with a disability over time?

The Centre is not aware of tools that effectively determine improvements in social inclusion over time, particularly in ways that are sensitive to the different characteristics of local communities as discussed throughout this submission.

The Centre encourages the Victorian Government to support research into this issue. As social inclusion of people with disabilities becomes an increasingly important issue of public policy within Victoria, throughout Australia and, indeed, internationally – especially in the wake of the adoption of the *United Nations Convention on the Rights of Persons with Disabilities* – the need to know what social inclusion looks like, and how to measure it, becomes more and more important. The Committee's Inquiry provides an excellent opportunity to look at how a measuring tool can be developed in a way that genuinely reflects and embraces the diversity of modern communities.

5.1 To what extent have the inclusion and participation of Victorians with a disability been advanced following the introduction of the *Disability Act 2006 (Vic)*?

The Centre notes that the *Disability Act 2006 (Vic)* has introduced a person-centred and whole-of-community approach to supporting people with a disability – one that attempts to build supports around the person on the basis of their individual needs and the resources of the communities within which they live and move.¹⁰

We believe that this model is the appropriate one for facilitating social inclusion in ways that are relevant to, and connected to, local communities.

We are not however aware of the extent to which this is actually happening nor, therefore, the extent to which the Act has in fact advanced the social inclusion and participation of Victorians with a disability, particularly in regional and rural communities.

We note, further, that the new service paradigm afforded by the National Disability Insurance Scheme (NDIS), particularly through the Barwon Launch

¹⁰ *Disability Act 2006 (Vic)* s 52

Site, reflects the approach set out in the *Disability Act 2006 (Vic)*. This obviously reinforces the potential provided by the Victorian Act.

5.2 What impact has the *Disability Act 2006 (Vic)* had on the social inclusion of people with a disability with respect to Victorian government services?

As noted in our answer to question 5.1 above, the Centre has not yet accessed data indicating the impact of the *Disability Act 2006 (Vic)* on the social inclusion of Victorians with a disability nor, therefore, are we aware of the impact of the Act with respect to social inclusion and Victorian government services.

However, we do note that, in general, Victorians living in regional and rural communities have less access to government services than those living in urban and metropolitan areas. The Centre's research into this area, particularly in relation to law and justice services, is set out in *Postcode Justice*, a report which outlines in some detail the difficulties that regional and rural Victorians experience in accessing such services as courts, tribunals, alternative dispute resolution services and legal aid.¹¹

While these services do not operate under the *Disability Act 2006 (Vic)*, their accessibility is critical to the realisation of that Act's principles in relation to support planning and to enabling community participation and social inclusion. The Act expects community infrastructure to be a source that can be drawn upon in supporting people with disabilities to participate in their communities. In the case of regional and rural Victorians, the lack of those services usually means the person has to go and live somewhere else. For many people, there can be few things more antithetical to social inclusion than to be dislocated from the community with which they feel most strongly connected and with which they most strongly identify.

6.1 How effective are services and initiatives designed to enhance the social inclusion of Victorians with a disability?

As noted in the Committee's Submission Guide, RuralAccess aims to facilitate community partnerships that can build inclusive communities for people with a disability. This has been an important initiative that has contributed significantly to the capacity of regional and rural communities to better include people with a disability.

While the various projects that have been developed under the RuralAccess banner have not necessarily had a specific law and justice focus, they have nevertheless been important in adding to the social inclusion/access to justice relationship that we mentioned in our answer to question 4.5 above. That is, by making rural and regional communities more disability aware, opportunities

¹¹ Richard Coverdale, *Postcode Justice: Rural and Regional Disadvantage in the Administration of Law in Victoria*, Deakin University, Centre for Rural Regional Law and Justice, 2011

for people with disabilities to participate in those communities as citizens exercising legal capacity and legal rights is inevitably enhanced.

Other services and initiatives, such as those facilitated through LGA disability action plans are, inevitably, varied in the extent to which they have positively impacted on the social inclusion of people with disabilities, particularly in rural and regional areas. The large geographical areas covered by regional LGAs will, however, generally mean that the specific needs of smaller rural communities in terms of improving disability inclusion will tend to be somewhat overlooked compared to the needs of the larger regional towns.

Once again, we note that the *Disability Act 2006* (Vic) provides a legislative basis for strengthening local community infrastructure through its emphasis on drawing on such resources, rather specialist disability services, for meeting the support needs of people with a disability. Therefore, with no legislative impediment to the provision of more, and more locally accessible, Victorian government services for people with disabilities in regional and rural areas, the only barrier seems to be one of resources.

6.2 What other sectors and sections of the community should have a greater role in improving the social inclusion of Victorians with a disability?

Improving the social inclusion of Victorians with a disability is everyone's responsibility. It is part of living as a socially responsible citizen, or of operating as a socially responsible corporate entity.

But it is the responsibility of Government to enable that to happen, to resource it and to hold the broader community responsibility for following it through.

Statutes such as the *Disability Act 2006* (Vic), the *Equal Opportunity Act 2010* (Vic) and the *Charter of Human Rights and Responsibilities Act 2006* (Vic) all provide a strong legislative framework, and the National Disability Insurance Scheme provides a strong service framework, for this to occur. But the resourcing of it continues to be an area of considerable need, especially in regional and rural towns where access to the benefits of progressive legislation and service models is still limited.

The Centre therefore stresses the importance of better government resourcing of regional communities, particularly in terms of law and justice services, as outlined in *Postcode Justice*, as well as disability related supports.

This is not to say that good social inclusion is just about more money. But it is about strong and robust community infrastructure and there will inevitably be resource implications for this.

Regional and rural communities can sometimes be incredibly rich in social capital.¹² That is, there is often already a strong sense of community working together in regional and rural areas and of people being prepared to “chip in” to make their communities thrive. Volunteerism is typically strong. In that sense, then, government investment in those communities is often likely to yield better and more returns in terms of positive social outcomes than might be the case for comparable investments in urban areas.

6.3 Are there examples of good practice in advancing social inclusion and participation driven by local government and the community sector?

As noted elsewhere throughout this submission, the Victorian government’s RuralAccess program has been an especially successful initiative in advancing social inclusion for people with disabilities in rural and regional Victoria, and particularly through the engagement of local government and the community sector.¹³

The program has been one that has been noteworthy for the ways in which it sees inclusion and participation as something that grows from within communities rather than being able to be effectively facilitated from outside. Its outcomes included tangible improvements in community access and participation for people with disabilities, as well as changes to local laws in ways that would better reflect and acknowledge the needs of people with a disability.¹⁴

These elements of RuralAccess, with their strong community development orientation, should be fostered in further initiatives undertaken to continue to increase the social inclusion and community participation of people with disabilities in rural and regional Victoria.

While local government was typically the host of RuralAccess projects throughout Victoria, there is no reason why the approach cannot be replicated with other partners in rural and regional communities, including those with a specific law and justice focus, such as police, courts and legal services. Resourcing community development initiatives that involve collaborating with these local law and justice stakeholders to develop more inclusive practices for people with disabilities has, if lessons are to be learned from the RuralAccess example, enormous potential to nurture good practice and to increase social inclusion for people with disabilities.

¹² Anna Ziersch, et al, ‘Social capital and health in rural and urban communities in South Australia’, in *Australian and New Zealand Journal of Public Health*, 2009, vol 33, no 1, p 8

¹³ HDG Consulting, *Evaluation of RuralAccess Final Report*, Department of Human Services, Victoria, 2009, p 52

¹⁴ HDG Consulting, *Evaluation of RuralAccess Final Report*, Department of Human Services, Victoria, 2009, p 34

7.1 What needs to happen in the implementation of the National Disability Insurance Scheme to improve the social inclusion of Victorians with a disability into the future?

As already noted throughout this submission, the National Disability Insurance Scheme (NDIS) appears to provide the sort of support paradigm, like that provided for in the *Disability Act 2006* (Vic), which has considerable potential to enable strong community inclusion for people with disabilities, including in rural and regional communities. Its focus is on building on the networks that are already around a person and, again as noted elsewhere in this submission, these can sometimes be particularly strong in rural and regional areas. We strongly support and endorse the NDIS legislation's overt recognition, as a key personal planning principle, of the importance of supporting communities to respond to the individual needs and goals of people with disabilities.¹⁵

Because of the close relationship between social inclusion and the realisation of legal rights, the Centre stresses the importance of recognising access to justice, and the enjoyment of legal capacity on an equal basis with that of other citizens, as an essential component in planning supports for any person with a disability, including in the context of the NDIS. We would therefore urge the inclusion of this as a required area of consideration when a support plan is being developed for a participant in the NDIS.

7.2 What should be the role of governments and the community sector in increasing social inclusion for Victorians with a disability?

The relationship between government and community sector has always been best understood as one of partnership, and this certainly applies very much in relation to enabling greater social inclusion of people with disabilities in rural and regional communities.

In this context, we believe "community sector" should be understood in its broadest sense – that is, not just as the various community service organisations that operate within a community, but also the community itself: its citizens, its volunteers, its networks both formal and informal. All of these are typically closely interwoven in rural and regional areas and it is their sum, much more than their parts, that constitutes a rural or regional "community sector".

It therefore follows that the role of government in increasing social inclusion for rural and regional Victorian with a disability will be one of partnership with the community, not just with community "organisations". As is clear throughout much of this submission, that partnership must be one where government respects the individuality and uniqueness of each of those communities, and resources it to develop its own approaches to better social inclusion of people with a disability including, as is the principle focus of this submission, in areas related to the administration of law and justice.

¹⁵ *National Disability Insurance Scheme Act 2013* (Cth) s 31(f)

In tangible terms, this means governments at all its level – local, state and federal – engaging with local communities to find solutions to legal challenges, such as:

- The prevention of crime through the development of locally relevant diversionary services, community-specific policing, realistic and accessible community-based sentencing options,
- Locally available and relevant Alternative Dispute Resolution mechanisms in all areas of legal adversary, including consumer law, contract law and Family law, and the law of torts,
- Effective and workable realisation of equal opportunity and anti-discrimination law;
- Enabling the exercise of legal capacity through the recognition of personally tailored alternative decision-making arrangements that draw on the unique support networks that might be available in a particular rural or regional community

7.3 In what way could collaboration between government departments, organisations, services and the community sector be improved to enhance social inclusion for people with a disability?

A clear and ongoing thread throughout this submission has been the importance of recognising the uniqueness of each rural and regional community. Communities in rural and regional Victoria can be as different from each other as they are from Melbourne.

Collaboration between the many different stakeholders – government, organisational, and community – will be greatly enhanced when those differences are embraced, rather than when attempts are made to force them into a kind of unanimity of cooperative approach. It can sometimes be the wont of government departments to expect these things – especially when they involve the level of risk and potential volatility that any relationship between communities and governments can bring – to be managed through common policies and protocols that attempt, somehow, to accommodate all those differences and, in so attempting, accommodates none of them.

We therefore urge the Victorian government to adopt a much more “bottom up” approach to the challenges of collaboration with rural and regional Victoria – one that is shaped and driven by those differences and that sees government as the instrument of the communities it represents, in all their diversity, rather than the means by which those communities are transformed in amorphous anonymity.

8.1 What needs to happen to improve the social inclusion of Victorians with a disability into the future?

The Centre’s submission is one that has been very much focussed on answering precisely this question. Our view is that the social inclusion of Victorians with a disability, particularly in rural and regional areas, and especially in relation to access to law and justice, is best enabled through

building on the strengths and characteristics that are already within each of those communities.

The future is one that will continue to create new opportunities as well as new challenges for rural and regional Victorians. As technology develops and spreads, regional and rural Victoria becomes less isolated than it once was. Clearly this is a good thing.

But with that can sometimes also come an expectation that regional and rural communities will become more like the city. And also, with that technological growth, can come an expectation that working on the ground, with and in rural and regional communities, becomes less important. Neither could be further from the truth.

For rural and regional Victorians with a disability, then, the key to experiencing social inclusion lies in the ability of government to understand what makes each of those communities what they are, and to resource those communities to build what they are into what they can become – a place where local people, regardless of who they are or of what they can or cannot do, live, participate and thrive alongside their neighbours.