Australian Government

Department of Social Services

Productivity Commission Study into National Disability Insurance Scheme Costs

Department of Social Services

Submission to the Productivity Commission

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Executive Summary

The Commonwealth Government is committed to a strong and financially sustainable National Disability Insurance Scheme (NDIS/the Scheme). Early indications suggest the NDIS is successfully delivering on its core objective of improving the lives of people with disability, through improved social and economic outcomes, with participant satisfaction levels remaining high throughout the trial period.

The NDIS is a major and complex reform. As such, there will be ongoing implementation challenges as the Scheme moves from relatively small-scale trials to full national roll-out. This submission sets out analysis of issues posed by the Productivity Commission (PC), which are of utmost interest to the Department of Social Services (DSS), and a number of significant observations the PC should consider in reviewing NDIS costs.

Generally, the Scheme is operating as intended. However, this analysis has led to a number of observations indicating there may be benefit in adjustments to the Scheme that could mitigate cost pressures while maintaining the integrity of the NDIS.

While the scope of the Scheme is appropriate, some participant estimates remain uncertain

There are concerns about the number of children entering the Scheme as a result of the inclusion of developmental delay; and whether people with psychosocial disability will miss out.

While the number of children approaching the Scheme is higher than estimated, the wide gateway approach being adopted by the National Disability Insurance Agency (NDIA) will mean all children requiring early intervention supports will have their needs met, regardless of whether it is through the NDIS or other support systems. The gateway's actual success will be dependent on services outside the NDIS being available, and the management of family expectation about how children's needs are met. The early indications are that the inclusion of developmental delay in the NDIS and the Early Childhood Early Intervention (ECEI) gateway approach is effective in supporting children. It is expected a number of these children will meet their development goals and will not require long-term NDIS supports. These pathways are not yet fully established.

Given the complex needs of many participants with psychosocial disability, there are challenges in engaging these participants and in managing intersections with other support systems. Implementation approaches require detailed understanding of intersecting support systems, and work needs to continue to deliver a best practice approach. The NDIS will be complemented by mainstream mental health services and commitments by governments through the *Fifth National Mental Health Plan* and the *National Disability Strategy 2010-20* (the *National Disability Strategy*).

The parameters of full Scheme costs may need adjusting

A full Scheme escalation rate needs to be set that reflects a maturing market and other cost pressures. An escalation rate of 3.5 per cent, as currently outlined in intergovernmental agreements, is unlikely to be sufficient to meet NDIS costs in the short to medium term. The PC review will need to consider the factors that inform an escalation rate. The escalation rate, at least in the medium term, needs to balance the impact of a maturing market; the Fair Work Commission decision on Social and Community Services award wages and conditions; disability prevalence rates; and the implementation of insurance principles expected to reduce the life-time cost of participants in the NDIS in the long term.

Full Scheme costs could also be higher if government contributions to packages continue to include high proportions of in-kind services, at current costs. Governments have agreed to minimise in-kind supports, but this is uncertain. At full Scheme there should be no in-kind NDIS supports, rather all service providers should be paid at NDIS prices. This would deliver the same pricing signals to both non-government and government services sectors.

The scale and pace of roll-out places strain on NDIA administration of the Scheme

The NDIA delivered NDIS trials on time and on budget. The commencement of transition was more challenging. Underlying these challenges is the question of whether the speed and scale of transition affects the NDIA’s ability to implement the NDIS and manage a mature and sustainable Scheme. This risk is increased by the use of outsourcing, with Scheme responsiveness, agility and national consistency requiring processes and staff development across a dispersed number of staff and community partner organisations. It is not clear whether this constrains the Scheme in delivering participant outcomes and value-for-money.

If transition estimates are not achieved within the agreed transition timeframes, especially for existing State and Territory (State) clients, transition funding arrangements should be extended within that State, at least until all existing clients have moved into the Scheme. This will reduce risks and continue efforts to have people access the Scheme as soon as possible.

An additional risk to consistency and sustainability will arise if a different model is implemented in Western Australia (WA), with the DSS preference for WA to be part of the national NDIS delivery model.

Potential cost pressures arise from unclear system boundaries and responsibilities

The NDIS is focused on specialist disability supports. The Council of Australian Governments (COAG) agreed principles to determine the responsibilities of the NDIS and mainstream service systems, which are generally sound, but need clarifying at an operational level.

In some cases, where the agreed boundary between NDIS and mainstream systems is being implemented, it has proved very challenging to operationalise, and solutions may require the NDIA to take on additional administrative burden. For example, there is some evidence that student transport supports may not easily transfer to the NDIS at this time. It has been challenging to align the NDIS model of individual choice and control with the structure of current State services. The costs and benefits of pursuing the inclusion of student transport in the NDIS need to be assessed against retaining current responsibilities with state-based education authorities.

Measurement and reporting is also difficult, as this has to bring together data from across systems and levels of government. Better cross-system reporting on disability could make system boundaries and responsibilities more transparent, as well as give a more coherent picture of improvements in services to people with disability.

COAG has accountability for the NDIS and the *National Disability Strategy*, through its Disability Reform Council (DRC), and regularly receives reports and advice on progress and risks. More could be done to reduce NDIS pressures by strengthening governance and accountabilities across COAG and its Councils to improve the delivery of the *National Disability Strategy*. It requires informal and mainstream supports to be available to all people with disability, including NDIS participants. Translating the *National Disability Strategy* into tangible results for people with disability, their families and carers is a major factor in successful implementation of the NDIS.

Monitoring and reporting through COAG infrastructure could be strengthened by specific disability reporting across relevant COAG Councils. The States need to demonstrate they are delivering their undertakings to provide continuity of support to clients not eligible for the NDIS, and to ensure all services meet the needs of all people with disability.

Progress is not yet evident on the medical and general insurance streams of the National Injury Insurance Scheme (NIIS). Contingencies are needed if the full NIIS is not delivered, as this would move costs onto the NDIS. A review of Scheme cost estimates needs to include an assessment of the NIIS not being fully delivered, and determine responsibility for the funding impact. If the NDIS were to pick up responsibility the funding obligation would sit fully with the States, which have responsibility for implementing the NIIS. The cost of the NDIS will increase through time if there is an absence of fully developed state-based medical and general NIIS streams.

Risk and control arrangements for shareholder governments at full Scheme need adjusting

In full Scheme, sustainability has to be managed by those governments bearing most of the risk, to have adequate controls. This is not currently the case.

Under current legislative and governance settings, the States have significant roles and responsibilities in setting NDIS policy and funding arrangements. Full Scheme risk-sharing arrangements need to be commensurate with policy and oversight responsibilities, which are better represented by the Commonwealth and States each bearing 50 per cent of NDIS risk.

The scale and pace of transition, and time needed for the Scheme to mature, requires agile and responsive risk management. Changed governance arrangements to enable streamlined decision-making are needed. This will greatly improve the ability for governments, particularly the Commonwealth, to manage risks to Scheme sustainability.

Information, Linkages and Capacity Building (ILC) may require more early investment

Investment in ILC is intended to complement other government and community supports for all people with disability, and to use these supports to reduce reliance on NDIS funded supports. ILC has not yet been fully implemented, and has minimal funding in the early years. An assessment is needed of whether more ILC investment from within the existing funding envelope for the Scheme is required in earlier years, and how this investment is best used to gain the maximum value and outcomes for people with disability and build Scheme sustainability.

The NDIS market is adjusting and developing towards full Scheme, with significant workforce growth needed to meet demand at full Scheme

Some early signs of localised supply and demand issues are evident. However, limited market and workforce data is currently available and all governments are now working with the NDIA and industry to develop richer and more reliable datasets to improve market oversight, stewardship and market development.

Significant workforce growth is needed to meet demand at full Scheme, and the traditional approach to workplace relations is being challenged in the disability sector through innovative engagement models and flexibility in working hours and shift arrangements.

While growth in provider registrations has been positive, anecdotal evidence suggests market growth may not keep pace with participant growth in some sub-markets. These thin markets are likely to be more sustained and pronounced in regional and remote areas.

Quality and safeguarding risks, including for fraud and sharp practices, are high during transition

There are potential risks as the national quality and safeguarding arrangements are being designed and delivered. The States remain responsible for this function during transition.

These risks arise for governments, providers and people with disability due to the shift in the disability services model from services delivered under largely block-funded contractual relationships with (primarily) State governments, to one where people with disability are the purchasers and consumers of services from a diverse market under the NDIS.

The Commonwealth Government has agreed to establish an independent Commonwealth statutory body, which will be responsible for provider registration and regulation; complaints; reportable incidents; and behaviour support practices under the agreed *NDIS Quality and Safeguarding Framework* (2016). This body will have a key role in achieving national consistency around quality and safeguards, which is currently disparate and fragmented, and in mitigating the risks of the new model for delivering services.

Given the scale and scope of the regulatory changes required, the timeframe for implementing new, national arrangements is very tight. States need to maintain responsibility and capability until the national system is implemented, as set out in intergovernmental agreements.

Price regulation is likely needed for some time.

In the short term, the NDIA is best placed to continue to set NDIS prices, for NDIS providers including governments. In the medium term (ideally within the next five years), an analysis of price-setting and whether an independent pricing authority is required, would inform long-term policy on price regulation.

Inflationary pressures could be placed on long-term Scheme sustainability if there is an absence of pricing signals from the NDIS as the market expands, and as new treatments, therapies and technology emerge. This has, to date, been masked by plan underutilisation rates and in-kind funding contributions from governments.

In addition, the current pricing policy for stimulating investment in Specialist Disability Accommodation (SDA) is new, and the market has not before had access to this type of capital payment. The SDA policy has not been implemented fully, and legislative Rules, which have only just been finalised to allow the NDIA to proceed, are being questioned by some stakeholders. DSS considers this a high-risk support, in an untested market. The review of the *Specialist Disability Accommodation Pricing and Payments Framework*, scheduled for early 2019, and the review of SDA prices, scheduled for 2021, will provide an opportunity to consider the policy parameters and prices to address any risks or unintended outcomes from the current pricing structure. The PC could consider whether these reviews could be brought forward, alongside the cost benefits and risks of SDA, and whether the policy's intent of securing the provision of sufficient accommodation over the short to medium term is likely to be realised.

These examples are presented as particular cases where adjustments to policy and design could have a positive impact on Scheme sustainability by addressing emerging risks. The updated Scheme estimates provided by the PC will help ascertain if any of these changes are warranted.

Introduction

All Governments are committed to the National Disability Insurance Scheme (NDIS)

The *National Disability Insurance Scheme Act 2013* (NDIS Act) provides the legislative framework for the NDIS, whose objective is a nationally consistent approach to providing reasonable and necessary supports, including early intervention, to support the independence and social and economic participation of people with disability[1]. The NDIS provides participants with choice and control in the planning and delivery of their supports to help them pursue their goals. As an insurance Scheme, the NDIS takes a life-time approach, investing in people with disability early to improve their outcomes in life and reduce reliance on long-term government funding.

By the end of December 2016, there were over 60,000 people with an approved NDIS plan[2]. Around half of those people entered the NDIS during the trial years from 2013–14 to 2015-16, and the other half between July and December 2016 (following the commencement of the transition to full Scheme). Over the next three years, around 400,000 more Australians are expected to transition into the NDIS, representing one of the most significant social policy reforms in Australia's history.

The Commonwealth and the States, except Western Australia (WA), have agreements to continue to fund the NDIS beyond the transition period. The Heads of Agreement for a full Scheme NDIS form the foundation for NDIS funding beyond the transition period. As the NDIS is rolled out, lessons from Scheme experience will inform the design and implementation of the NDIS to improve outcomes for people with disability and secure the financial sustainability of the Scheme.

At the COAG meeting in December 2016, leaders reiterated their commitment to the success of the NDIS, ensuring it delivers better outcomes for Australians living with permanent and significant disability. Leaders reaffirmed the foundational principles of the NDIS and the importance of working collaboratively to manage the transition to full Scheme.

The NDIS is improving the social and economic outcomes for participants

The NDIS has been established to provide assurance to people with a permanent disability and those who may acquire a disability that they will receive the support they require, and to support their independence and social and economic participation.

During the NDIS trial period, the Commonwealth Government invested $10.3 million to evaluate the performance of the NDIS against this goal. The National Institute of Labour

[1] The NDIS Act in conjunction with other laws, give effect to Australia's obligations under the Convention on the Rights of Persons with Disabilities adopted at New York on 13 December 2006.
[2] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016

Studies' *Evaluation of the NDIS – Intermediate Report*[3] confirms the NDIS is improving the lives of people with disability.

Key findings of the intermediate evaluation report include:

- increased supports for the majority of respondents through increased hours, frequency and more appropriate equipment
- an overall improvement in choice and control: with 44 per cent of respondents reporting they have more say over the supports received; 46 per cent reporting more choice in the location of the support; and 49 per cent reporting an increase in satisfaction with the quality of the supports after joining the NDIS, noting that initially participants did not change providers
- participants indicated, as a whole, the NDIS has improved the wellbeing of themselves and their family members and carers. This improvement is associated with 'living' better, rather than just managing or 'surviving', and with generally feeling happier, as well as achieving personal goals since joining the NDIS
- participants reported increased social participation, taking part in activities independently, and following interests and social activities that had previously been inaccessible
- disability service providers are responding to consumer demand and expanding their range of services.

Carers are also being supported with the NDIS taking into account what can reasonably be expected to be provided by families, carers, informal networks and the community. If the person cared for requests it, a carer can play a vital role when the person they care for enters the Scheme, helping with decision-making about support needs, goal-setting, assessment and the planning process. However, the NDIS evaluation's intermediate report found mixed feedback from carers regarding their experience with the NDIS. For example:

- both the quantitative and qualitative data indicate family members and/or carers of NDIS participants are unable to take adequate breaks from providing support
- family members and/or carers cannot access carer support in a consistent manner.

At the same time, there were some strong positive findings:

- carer wellbeing improves as the people they care for are supported by the NDIS, and as a result, carers are likely to need less direct support than previously
- the wellbeing of family members and carers had also generally improved as a result of reduced financial strain and increased access to supports.

The NDIA has developed an NDIS Outcomes Framework to measure economic and social participation outcomes for NDIS participants and their families and carers. Benchmark data

[3] National Institute of Labour Studies, Flinders University, Evaluation of the NDIS – Intermediate Report, September 2016
www.dss.gov.au/sites/default/files/documents/11_2016/final_intermediate_report_wcag_compliant_24_nov_2016.pdf – September 2016

presented in the NDIA's Quarterly Report, 31 December 2016[4] (the December Quarterly Report), which shows:

- for participants aged 0–6 years: 65 per cent were able to make friends outside of family, and 58 per cent participated in age appropriate community, cultural or religious activities
- for participants aged 7–14 years: 44 per cent were reported by parents as becoming more independent, 50 per cent are attending school in a mainstream class, and 63 per cent can make friends outside of family
- for participants aged 15–24 years: 42 per cent choose what they do each day, 70 per cent would like more choice and control over their life, and 15 per cent have a paid job
- for participants aged 25 years and over: 60 per cent choose what they do each day, 63 per cent would like more choice and control over their life, and 23 per cent have a paid job.

Participant satisfaction has declined slightly during the early period of transition to full Scheme and cost pressures are emerging despite positive early indications of the effectiveness of the NDIS. The NDIA is developing more qualitative indicators of participant satisfaction which, over time, will provide a richer understanding of the participant experience.

The PC review provides an opportunity to test experience to date against the NDIS objectives of updating the estimates underpinning Scheme design and implementation, and consider further enhancements to full Scheme design to ensure Scheme sustainability.

[4] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.

2. Current Scheme Estimates

The design of the NDIS

The NDIS is replacing rationed and fragmented state-based specialist disability systems and separate Commonwealth disability programs. The cost of the NDIS should be measured not just against its budget, but against the economic participation and social outcomes for people with disability in the absence of the NDIS.

The PC originally estimated that by 2050, the collective impact of the NDIS would be around a one per cent increase in Gross Domestic Product (GDP) above its counterfactual level, translating to around $32 billion in additional GDP in that year alone[5]. In addition, PricewaterhouseCoopers considered that not investing in the disability system would result in higher costs over the long term due to crises, and result in unacceptable outcomes for people with disability[6].

The final design of the NDIS agreed by governments differed in three key areas compared to the original recommendation by the PC:

- the ability for participants to choose to remain in the NDIS once they reach the age of 65, and remain outside aged care funding arrangements
- the inclusion of developmental delay in NDIS early intervention criteria
- the inclusion of supports to undertake learning or social interaction.

In addition, the component now called ILC was funded at a lower amount than recommended by the PC. Despite this, the PC's initial estimate of overall Scheme costs forms the foundation of current intergovernmental agreements and budgeting arrangements. It is expected the PC review will update cost estimates based on current Scheme design.

Current participant estimates

In most jurisdictions, existing clients of State specialist disability systems, often those with higher needs, have been prioritised for transition into the NDIS. It is more difficult to estimate new participants who have not previously been in receipt of specialist disability services, and who have generally been slower than expected to enter the NDIS. It is expected the number of people with disability not previously receiving disability services will continue to become clearer as transition progresses and full Scheme commences.

Overall, national participant numbers are generally consistent with the PC's original estimates, but the geographic distribution of participants has slightly differed from expectations. For example, participant numbers in the Barwon trial site are higher than the estimates, while the Hunter trial site has had fewer participants enter the Scheme. This

[5] Productivity Commission, *Disability Care and Support*, Productivity Commission Inquiry Report, Volume 1, July 2011.
[6] PWC – Disability expectations investing in a better life, a stronger Australia, November 2011.

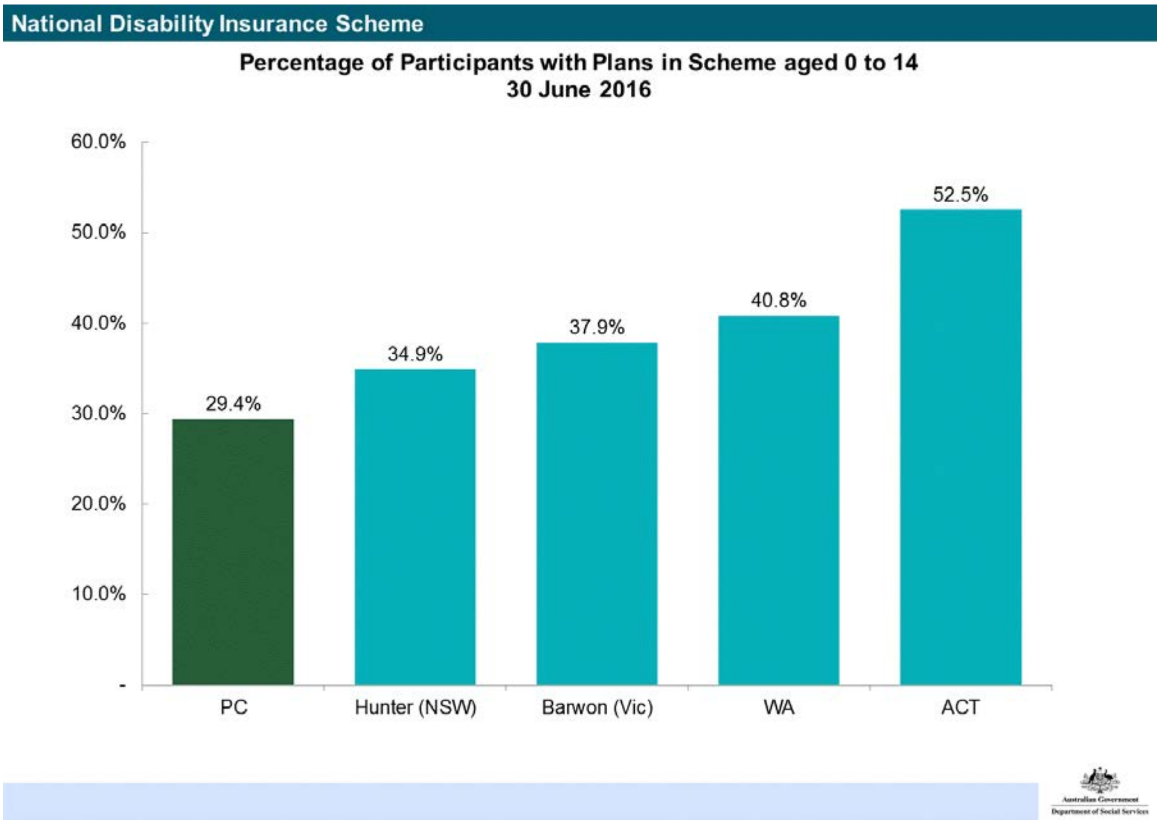
variance was to be expected, given the margin for error in overlaying national estimates to small geographic areas.

On the advice of respective State governments, bilateral participant estimates for the trial period in the Australian Capital Territory, South Australia and Tasmania were lower than had been assumed by the PC's methodology. These lower estimates have not held up to actual experience and this would indicate that the original PC estimate was a solid foundation for full Scheme population estimates.

Higher number of children

The number of children has also been higher than estimated. During the trials, 70 per cent of children aged 0–14 years entered the NDIS as early intervention participants, but from 1 July to 31 December 2016, the proportion entering the Scheme on the early intervention criteria has dropped to around 40 per cent[7], with 2,267 children instead being referred to mainstream services through the ECEI gateway[8].

Figure 1: Percentage of participants aged 0 to 14 years, 30 June 2016



Source: Derived from NDIA, Quarterly Report to COAG Disability Reform Council 30 June 2016 and Productivity Commission, Disability Care and Support, Productivity Commission Inquiry Report, Volume 1, July 2011.

[7] NDIA, unpublished data
[8] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.

One area where the NDIS can have a significant and positive impact is early intervention supports for children. A clear example where the NDIA administration model has evolved to manage pressures on the Scheme is through the establishment of the ECEI gateway, which is designed to provide early intervention supports and leverage state-based mainstream services where a child's needs are more appropriately met through those systems. The ECEI gateway has only recently been introduced and is being progressively implemented. The figure above shows the high proportion of children, particularly in the ACT. These children entered the Scheme before the ECEI gateway was introduced.

A wide gateway approach through the ECEI gateway results in a higher than expected number of children receiving early intervention supports. It is too early to determine whether ECEI has been effective, particularly in linking children 0–6 years with the mainstream and community services they need.

For existing young children on early intervention plans, it is expected that, over time, a number of these children will achieve their developmental goals and no longer need an NDIS funded package of supports.

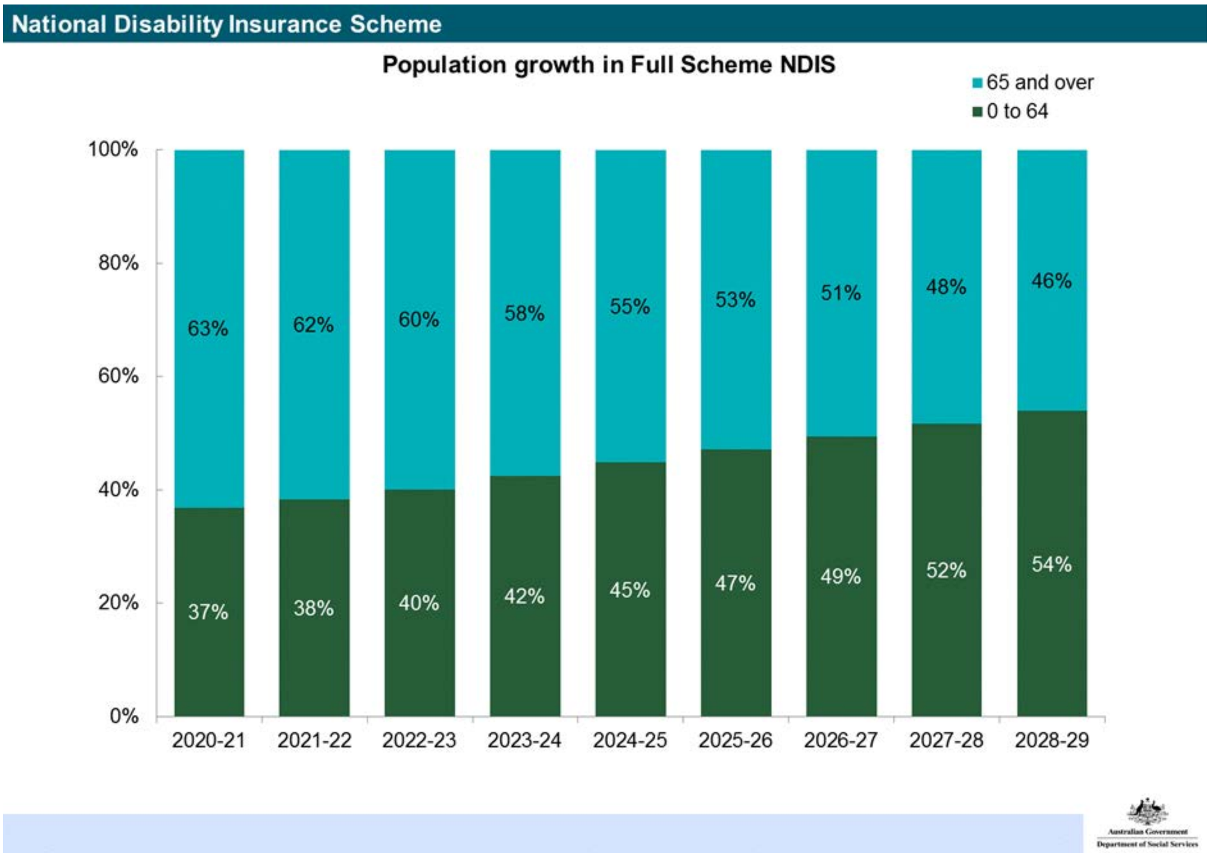
Observation: While the number of children approaching the Scheme is higher than estimated, the wide gateway approach is a worthwhile arrangement, as all children requiring early intervention supports have their needs met, regardless of whether it is through the NDIS or other support systems. The gateway's actual success will be dependent on services outside of the NDIS being available, and the management of family expectation about how children's needs are better met. Children would move off NDIS supports once their developmental goals are met.

Estimates of participants ageing in the Scheme

Under the *2011 National Health Reform Agreement*, the Commonwealth has funding responsibility for people aged 65 and over (and Aboriginal and Torres Strait Islander people aged 50 and over), either through the NDIS or the aged care system.

Over the medium term (until 2027–28), the number and cost of people ageing in the NDIS is anticipated to account for the majority of growth in NDIS costs. Participant numbers also increase as participants age over 65, and new entrants aged 0-64 enter the Scheme.

Figure 2: Age composition of population growth in full Scheme NDIS



Source: Department of Social Services modelling, MYEFO 2016-17.

A key issue in the design of the NDIS is where the line is drawn between the aged care and disability systems, and what happens to people who develop disability after 65 years of age, noting the original PC recommendation to align the age of eligibility to the pension age. Under the NDIS Act, participants are able to remain in the NDIS once they turn 65, or can exit the Scheme to enter the aged care system on a permanent basis.

While the NDIS provides supports at no cost to the participant, means-tested co-contributions are a feature of the aged care system. It is not known whether this may act as a disincentive for participants aged 65 years and over to exit the NDIS, even when their needs may be better met by the aged care system. However, for many with lifelong disability, it is unlikely that sufficient assets would have been accumulated for a means tested co-contribution to apply after the age of 65 years.

To date, there is limited experience for people ageing over 65 in the Scheme to assess the appropriateness of the NDIS interface with the aged care system. Compared to estimates, there have been fewer participants aged over 65 in the Scheme and average supports costs have been below expectations. The oldest participants in the Scheme at this stage are 69 years of age, hence, higher costs associated with the last few years of life and issues arising from the interface with the aged care system have not yet materialised in the Scheme.

There are some stakeholder views that the service offer in aged care is not suited to meet the needs of older people who develop a disability, but rather focuses on support for frail older Australians. People with disability outside the NDIS may be forced prematurely into aged care, particularly residential aged care.

As part of the NDIS transition arrangements, the aged care system is implementing a new continuity of support program for people aged 65 which looks at who is ineligible for the NDIS and who is currently in state specialist disability services. Learning from this program may inform the broader aged care system in providing specialist disability supports.

Participants with psychosocial disability

The number of participants and the value of supports for participants with psychosocial disability are largely in line with expectations despite implementation challenges in engaging some participants with a primary psychosocial disability. In relevant trial sites, the overall estimates of the percentage of NDIS clients with psychosocial disability tracked closely to the PC estimate, at around 13 per cent and 14.1 per cent respectively in New South Wales (Hunter) and Victoria (Barwon)[9]. As at 31 December, around 81 per cent of people with a primary psychosocial disability who have lodged access requests during trial and transition were found eligible for the NDIS[10].

During transition, the average annualised cost for participants with psychosocial disability has largely reflected the expected costs[11].

Delivery of supports to people with psychosocial and mental health support needs is changing as a result of the introduction of the NDIS. Existing Commonwealth community mental health programs are capped and limited. The NDIS is demand driven, with the majority of Commonwealth clients expected to transition to the NDIS, and continuity of support being provided to current clients not eligible for the NDIS. Once the NDIS is available nationally, all people with psychosocial disability eligible for the NDIS will gain access to ongoing psychosocial recovery supports that focus on a person's functional ability, including enabling them to undertake activities of daily living and participate in the community and in social and economic life.

The NDIS can also assist people with psychosocial disability who are ineligible for the NDIS and who were not clients of Commonwealth funded services to obtain information about relevant services in their community. This is through Local Area Coordination services,

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[9] 31 December 2016 Key Data on Psychosocial Disability and the NDIS published by the NDIA

[10] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.

[11] Ibid.

which link people to services within their community. Local Area Coordination services also perform a vital role in outreach to those in very vulnerable circumstances who are hard to find, as well as those who are known but hard to engage.

There is significant concern that people with severe mental illness may miss out on services. The National Mental Health Commission's report on Mental Health Programs and Services estimated the population of people experiencing severe mental illness at around 700,000. There are over three million people in Australia with some sort of mental illness in any one year. Outside the NDIS, it is intended that mainstream supports assist people with mental health needs. At the Commonwealth level, this includes Commonwealth health supports and services, and employment services. Service gaps have been a known issue for some time, and the States remain primarily responsible for health and mental health services.

State spending on community mental health services of $1.9 billion in 2014–15, compares to Commonwealth spending of $0.4 billion — 83 per cent and 17 per cent respectively of the total national spend on community mental health[12].

On 3 March 2017, DRC agreed to focus on mental health to ensure mainstream systems are effectively supporting all people with disability in Australia as part of it efforts to reinvigorate all governments' effort to drive progress under the National Disability Strategy.

Observation: Given the complex needs of many participants with psychosocial disability, there are challenges in engaging these participants and in managing intersections with other support systems. Implementation approaches require a detailed understanding of intersecting support systems, and work needs to continue to deliver a best practice approach; for example, the case coordination approach used in the *Partners in Recovery* program, which supports people with severe and persistent mental illness with complex needs, and their carers and families, by getting multiple sectors, services and supports to work in a more collaborative, coordinated and integrated way.

The NDIS will be complemented by mainstream mental health services and commitments by governments through the National Disability Strategy and the development of the *Fifth National Mental Health Plan*.

[12] AIHW, Expenditure on mental health services.

Financial Sustainability

Current cost estimates

The NDIS is currently estimated to cost in the order of $22 billion once fully rolled out in 2020. Over the medium term, this cost is expected to grow above long-term inflation and population growth trends due to the impact of people ageing over 65 in the Scheme. As a result, the cost of the NDIS is expected to increase to more than $32 billion by 2030, with the Commonwealth share roughly half of all costs in the short-term, but growing through time as existing participants turn 65[13] to around 56 per cent by 2030.

Table 1: Current NDIS Budget Estimates over the medium term[14]

	2019-20	2020-21	2021-22	2022-23	....	2028-29
Gross Scheme Costs, $b	**21.448**	**22.843**	**23.980**	**25.145**		**32.141**
Participant Package Costs, $b	20.0	21.5	22.6	23.7		30.6
ILC block grants, $b	0.1	0.1	0.1	0.1		0.1
Admin and Other, $b	1.3	1.3	1.3	1.3		1.4
Commonwealth contribution, $b	11.1	12.0	12.7	13.5		17.9
Commonwealth contribution, %	52%	52%	53%	54%		56%
State and Territory contributions, $b	10.3	10.9	11.2	11.6		14.3
State and Territory contributions, %	48%	48%	47%	46%		44%

Source: Department of Social Services Modelling, 2016-17 MYEFO.

Financial sustainability

DSS supports the definition of financial sustainability used in the NDIA's *Insurance Principles and Financial Sustainability Manual*[15]*.* The definition articulates that the NDIS is "successful on the balance of objective measures and projections of economic and social participation and independence, and on participants' views that they are getting enough money to buy enough high-quality goods and services to allow them reasonable access to life opportunities -—that is, reasonable and necessary support". It goes on to say that "contributors think that the cost is and will continue to be affordable, under control, represents value-for-money and, therefore, remain willing to contribute".

Considerations of NDIS sustainability need to weigh the success of the Scheme in improving economic and social outcomes and the value-for-money proposition for contributors.

[13] Roles and responsibilities outlined under the 2011 National Health Reform Agreement mean the Commonwealth is fully responsible for funding NDIS participants aged 65 and over (Aboriginal and Torres Strait Islanders aged 50 and over).
[14] As at the Commonwealth 2016–17 Mid-Year Economic and Fiscal Outlook
[15] As cited in the National Disability Insurance Scheme (NDIS) costs Productivity Commission Issues Paper, February 2017, p.31.

The total cost of the NDIS is sensitive to two key parameters:

- the number of participant in the Scheme
- the average value of supports received by participants.

Emerging cost pressures

While costs generally remain consistent with original forecasts, transitional cost pressures have occurred and may persist beyond the start of full Scheme as the NDIS and the disability services market mature. More significant for the long-term financial sustainability of the Scheme, is the risk that emerging pressures become structural and systemic risks. As an insurance-based Scheme, the NDIS needs to project future costs, liabilities and risks, based on current estimates and actual experience.

While the NDIS has been operating within overall expected costs so far, experience from the Scheme indicates there are some emerging cost pressures that need to be addressed to secure financial sustainability. The December Quarterly Report[16] noted cost pressures arising from:

- higher than expected numbers of children entering the Scheme
- increasing package costs over and above the impacts of inflation
- higher than expected numbers of participants continuing to approach the Scheme
- lower than expected numbers of participants exiting the Scheme
- a mismatch between benchmark package costs and actual package costs.

Changes in the number of children

To date, the number of children entering the Scheme has been higher than expected. For example, around 1,500 children aged 0-14 had been expected in the Barwon trial site, whereas 1,945 children in that age range entered the Scheme by the end of trial. This may, in part, be due to the inclusion of developmental delay in the eligibility criteria for early intervention supports. During trial and transition, approximately 5,500 children aged 0–14 years with development delay have entered the NDIS. This equates to 20 per cent of all participants in this age group[17]. It is also possible the prevalence of conditions such as autism and related disorders is higher than previously thought, reflecting changing diagnostic practice and growing community awareness.

Increased package costs

The NDIA has observed increasing package costs above the impacts of inflation and the impact of ageing in the Scheme. The largest change has been between the first and second

[16] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.
[17] NDIA, unpublished data

plans[18]. Understanding the drivers of this trend is important so any potential long-term impact on Scheme sustainability can be managed.

Changes to the mix of low and medium cost plans

At the end of trial there were fewer participants with low-cost plans than expected (individual support package costs less than $10,000 per year), and a larger number of participants with mid-range plans ($10,000 to $30,000 per year). The number of participants with higher-cost plans has been in line with expectations. The distribution of costs is highly skewed towards a small number of participants with high-cost packages, including those in Large Residential Facilities[19]. The different phasing arrangements among the States mean the mix of participants and the distribution of package costs during trial is not necessarily representative of full Scheme.

Higher number of participants approaching the Scheme

A higher than expected number of participants continues to approach the Scheme, though this has varied between trial sites with a greater than expected number in Barwon and fewer than expected in Hunter. Lower numbers have also been observed in the North Queensland transition site. This trend of higher numbers of participants approaching the Scheme has continued during transition with some reduction in New South Wales and the Australian Capital Territory[20].

Numbers exiting the Scheme

The number of participants exiting the Scheme has been lower than expected[21]. Early intervention is intended to improve functional capacity and, in doing so, reduce long-term support and care needs. It is not year clear the extent to which early intervention supports are improving the functional capacity of early intervention participants to a point where they no longer require NDIS supports.

Estimated and actual package costs

Estimating average package costs has been challenging due to the erroneous estimation of some transition costs where only limited trial data was available on which to base cost estimates. This means some estimates are too high and others may be too low.

The NDIA notes a large driver of the mismatch is participants in shared supported accommodation. This is a legacy issue from the existing disability system and is likely to be present for several years. The December Quarterly Report notes that for shared supported accommodation, the actual costs are higher than estimated[22]. It will take some time to move to more cost-effective models due to issues related to current stock and funding models.

[18] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.
[19] Ibid.
[20] Ibid.
[21] Ibid.
[22] Ibid.

Better participant outcomes and financial sustainability will be achieved through further analysis by the NDIA to align estimated and actual package costs, and improve access, planning and plan implementation and review processes.

To date, higher package costs have been more than offset by plan underutilisation. Utilisation of supports[23] in plans for 2015–16 was 73 per cent as at 31 December 2016[24]. Over time, cost pressures may increase, as utilisation rates increase further. This will need to be monitored closely during transition. Better management of cost pressures should reduce the impact of increasing utilisation rates as robust and consistent processes continue to be built.

In addition, there are some natural cost pressures that would arise during the establishment phase of the Scheme that would distort the long-term picture of costs. These include:

- a backlog of capital investment in aids and equipment caused by the transition from a rationed system, creating initial upfront costs as participants' supports are upgraded
- continuing refinement of the NDIA's operating policies and procedures in assessing eligibility and reasonable and necessary supports; and the application of reasonable and necessary supports including reducing supports through the review process - for example, where particular goals have been achieved or the package was outside reference package costs without a reason
- the progressive closure of existing Commonwealth and state specialist disability service systems, the provision of in-kind services in this context, and the development of interfaces with existing mainstream systems, such as education.

The danger of transitional cost issues is they have the potential to become entrenched if not appropriately addressed. Transitional cost issues can create expectations and precedents within the sector, both government and non-government, which can go on to create long-term systematic pressures for the NDIS.

Understanding cost escalation rates

In addition to updating the estimated cost of the NDIS at full Scheme, understanding how scheme costs will grow through time is critical to ensuring the NDIS is fully funded and financially sustainable. In the long term, when the Scheme has matured, developing an escalation rate informed by a small number of key economic parameters would be appropriate. However, in the short to medium term, the escalation rate is unlikely to reflect underlying cost growth in the Scheme. This is because the expansion of the market does not lend itself to long-term growth rates in the near future, and it will take some time for the

[23] Utilisation of supports in plans refers to the proportion of funded supports in participant's plan that have been used, and paid for.
[24] Note there is a lag between when support is provided and when it is paid which affects the utilisation to date figure. As this lag is more prominent in recent months the impact is greater on the utilisation rate for supports expected to be provided in 2016–17. Hence, it is more meaningful to consider the utilisation rate for 2015–16.

number of participants aged 65 and over in the scheme to stabilise. Instead, a medium- term escalation rate should be developed that considers known transition variables.

In developing a medium-term indexation rate the PC should consider at least:

- current and medium-term economic parameters
- the impact of an expanding disability services market on price and wage inflation
- the effect of the Fair Work Commission decision for Social and Community Services Sector award wages
- potential actions to be taken by governments and/or the NDIA in regulating price over the medium term
- the impact of early intervention and other insurance principles in reducing future costs (efficiencies)
- productivity improvements, including the continuing development and use of technology – aids and equipment, as well as assistive technology and innovations that may improve efficiency of delivery of services
- projected disability prevalence rates
- observed growth rates in similar markets or schemes.

Under current intergovernmental agreements for full Scheme, the States will contribute to the NDIS though capped and fixed contributions, based on the New South Wales fixed contribution of $3,133 million in 2018 19 (pro-rated contributions for other States, based on census population shares). These contributions are currently assumed to escalate at 3.5 per cent per annum, subject to the current PC review of NDIS costs. The 3.5 per cent was derived from the long-term CPI of 2.5 per cent (midpoint of the long-term CPI target Reserve Bank of Australia range) and long-term net population growth rate of one per cent. In addition to developing a medium and long-term escalation rate for the NDIS, the PC should develop a state contribution escalation rate that, while based on the medium and long-term indexation rate, is adjusted to take account of the States' roles and responsibilities, including, the extent to which States support and fund mainstream services; and noting the Commonwealth is responsible for fully funding NDIS costs for participants aged 65 and over (Aboriginal and Torres Strait Islanders aged 50 and over).

Observation: medium and long-term escalation rate needs to be set that reflect a maturing market and other cost pressures. In addition, a State contribution escalation rate needs to be developed that takes into account the roles and responsibilities of the States in the successful implementation of the NDIS.

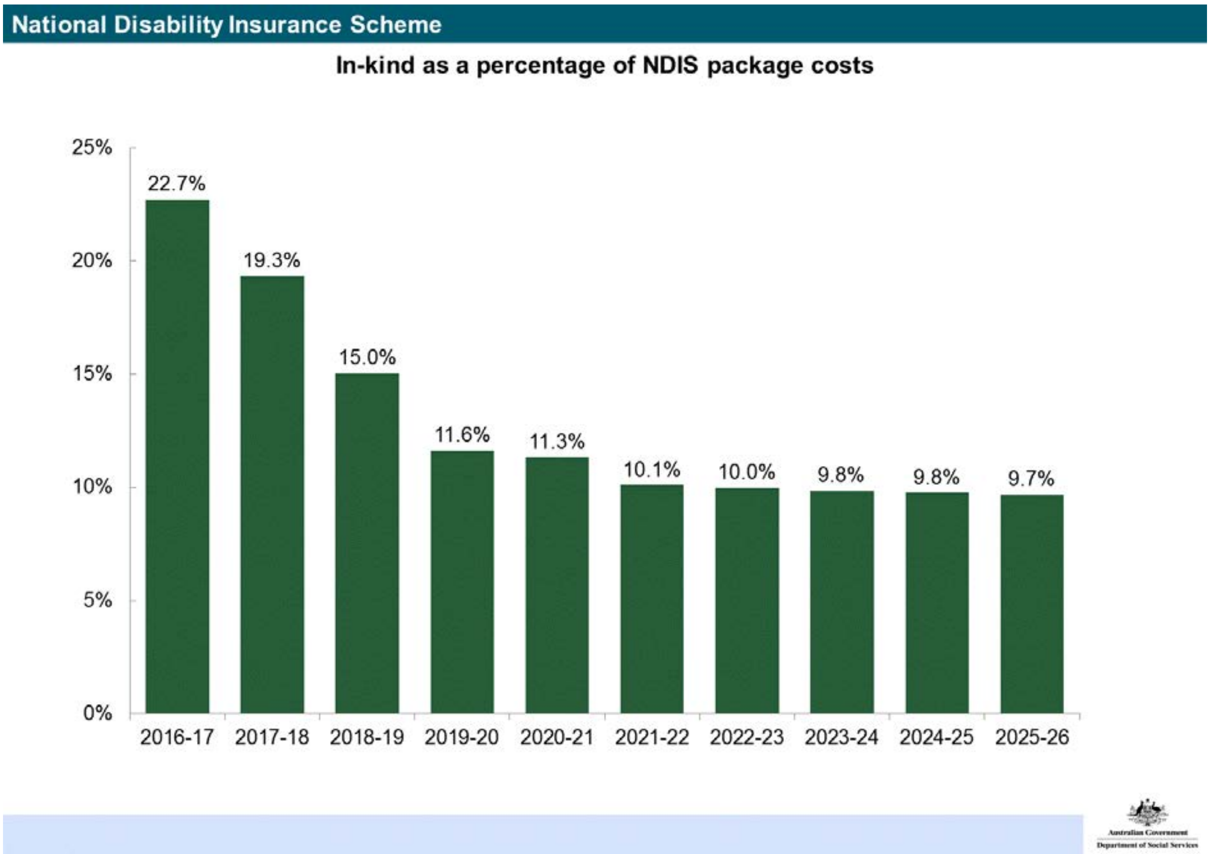
In-kind funding of package supports

The provision of government in-kind contributions as part of NDIS support packages not only reduces participant choice, as in-kind supports must be used to enable the NDIS to be delivered within budget, but adds financial pressure as in-kind contributions are based on current costs to government as opposed to a market-driven efficient price. If maintained, there is a risk inefficient costs from legacy systems will be transferred to the NDIS.

This is particularly the case for state funded and operated shared supported accommodation facilities.

To date, the States have been the primary contributors of in-kind supports. While this is primarily due to the complexity and timeframes required to close down existing service systems, it has also allowed the States to manage their risks in securing participant outcomes and managing their financial risks. Overall, in-kind contributions at the commencement of full Scheme from all governments are currently anticipated to be around 10 per cent of Scheme package costs, compared to around 19 per cent during transition. All governments are reviewing their in-kind contributions on an ongoing basis, with a view to minimising in-kind contributions in full Scheme, however this is uncertain.

Figure 3: In-kind as a percentage of NDIS package costs



Source: Department of Social Services Modelling, 2016-17 MYEFO.

For full Scheme, support values will be more accurate and based on transition experience; however, this will be constrained if in-kind supports are retained, meaning an efficient price will be harder to set and there will be less cash in the Scheme.

In order to manage the risk of in-kind services on the financial sustainability of the Scheme, governments need to work closely with the NDIA to phase out all in-kind supports by full Scheme. If government services are unable to meet NDIS prices, the distortionary impact of in-kind services on Scheme costs need to be avoided, and additional costs should be borne by the contributing government and not the NDIS. This would require the NDIA to develop and pay governments robust prices for all supports to enable clear benchmarking of Scheme costs.

Observation: The provision of in-kind NDIS services by governments needs to be excluded from full Scheme funding arrangements in favour of government service providers being paid at NDIS prices. This would deliver the same pricing signals to both non-government and government services sectors.

National Disability Insurance Agency operational funding and management of financial sustainability

The Commonwealth is responsible for funding the operating costs of the NDIA. At the commencement of full Scheme operations, approximately seven per cent of the NDIA's total budget is for operational expenditure – an aspirational approach designed to encourage best practice and efficient operations. In addition, the NDIA has a full Scheme cap of 3,000 directly employed staff, with the remaining outsourced to local partners[25].

Some pressures have occurred during the early stage of the transition period, with:

- the NDIA sourcing surge capacity from the Department of Human Services to manage the increased demand on the Scheme and the impact of difficulties experienced with the initial *myplace* portal implementation
- inconsistent decision-making and planning arising from the speed of transition to date, and the need to interact with eight different State systems
- inherent challenges in the timeframes for achieving full Scheme and, in particular, New South Wales and South Australia where the NDIS is to be fully rolled out by the end of 2018–19.

Underlying these challenges is the question of whether the speed and scale of transition affects the NDIA's ability to implement the NDIS and manage a mature and sustainable Scheme. The ambitious time frame for full Scheme roll-out has potential risks for implementation and financial sustainability; but there is equally a community expectation that people with get access to the NDIS as soon as possible.

The risks for the NDIA are increased by the use of outsourcing, with Scheme responsiveness, agility and national consistency requiring processes and staff development across a dispersed number of staff and community partner organisations. It is not clear whether this constrains the Scheme in delivering participant outcomes and value-for-money.

Observation: People want to have access to the Scheme quickly, so that participants can reap the benefits the NDIS offers them. However, there are risks arising from the scale and pace of roll-out that has potential to place strain on the NDIA, and on agreed transition timeframes.

Embedding insurance principles into NDIS design and operations is critical for Scheme sustainability and the lifetime wellbeing of participants. The NDIA is continuing to build the required systems and processes to embed these principles and has nationally consistent planning and funding decisions. This should result in a robust Scheme that is able to respond to individual needs in a fair and equitable way.

Outside system-wide policy changes, the NDIA has several operational levers to manage cost pressures in the Scheme. These include:

[25] Commonwealth Government, Budget 2016–17, Agency Resourcing Budget Paper No.4, 2016–17

- the use of reference packages to manage cost and support insurance-based principles that reduce lifetime costs
- clear policies for planning that define what is reasonable and necessary and clarify intersections with informal and mainstream supports
- plan review processes to ensure participants have their support needs met, and who have had their support needs met, or are better supported through other systems, are transitioned out of the Scheme
- investment in ILC, preventative supports, and structures to ensure only those who are eligible for the NDIS access the Scheme, whilst those not in the Scheme can still access the supports and services they need.

The use of reference packages by the NDIA is a sound approach to ensure participants receive adequate and appropriate supports in their first sustainability plan. Reference packages aim to provide an annual benchmark funding level of support for participants with similar support needs and characteristics. The reference packages manage sustainability by referencing the amount of funded support provided to each individual participant to the overall available funding. Because reference packages are evidence-based, it is also a way to prevent risks and build a long-term foundation for participant plans focused on achieving positive outcomes. Ongoing refinement of this approach will aim to ensure the right assessment tools and questions are used[26].

The insurance-basis of the NDIS is still maturing and it is too early to assess its long-term effectiveness in improving wellbeing for people with disabilities and managing costs in the Scheme. The evidence-base for lifetime cost estimation is increasing, and will need investment to be sufficiently robust and broad-based to inform individual supports. The impact and use of technology by participants is also important to consider and incorporate into the evidence-base. While this will take time, the early and effective implementation of insurance-based principles is necessary to avoid unsustainable cost escalation.

The National Injury Insurance Scheme

A core part of the PC's recommendations for design of the NDIS was the development of a state-based National Injury Insurance Scheme (NIIS) to provide no-fault lifetime care and support for all catastrophic injuries, which would act in parallel to the NDIS and reduce the cost. The PC recommended implementation of the NIIS be faster than the full roll-out of the NDIS, owing to the then arrangements already in place for motor vehicle and workplace accidents. While the development of insurance arrangements for motor vehicle and work place accidents has progressed and will be fully implemented by the time the NDIS is rolled out, there has been limited progress in implementing the no-fault medical and general streams of the NIIS.

Over the short to medium term, the medical and general streams may not be implemented, with a number of implementation challenges identified for the medical stream.

[26] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.

Observation: Contingencies are needed if the full National Injury Insurance Scheme (NIIS) is not delivered, as this would move costs onto the NDIS.

Not proceeding with the medical or general streams of the NIIS will have a direct impact on the NDIS by increasing overall Scheme costs, which would not be fully recovered through common law rights to pursue damages, and would essentially see the NDIS acting as a default NIIS in these areas. Recent work by the Australian Government Actuary for the NIIS Senior Officials' feasibility analysis concludes that a fully funded medical NIIS would cost around $235 million per year, not including administration costs. In developing revised costs estimates for the Scheme, the PC could work with the NDIA Scheme Actuary to assess the impact on Scheme costs, and overall Scheme sustainability, from not implementing state-administered medical and general streams of NIIS. Any additional cost, not adequately funded by the States, is a risk to the Commonwealth.

Australian Government
Department of Social Services

Boundaries and mainstream intersections

Effective mainstream services and clear delineation of responsibilities

The *National Disability Strategy* is an overarching strategy agreed by COAG, which provides a ten-year national policy framework for improving life for Australians with disability, their families and carers. Currently, the Strategy is in its second implementation plan, *Driving Action 2015–2018*[27], in which the Commonwealth and the States have committed to new priority actions, and to build on ongoing commitments to improving outcomes for all people with disability, including bringing the NDIS transition to full Scheme. The policy framework's original six key areas are inclusive and accessible communities, rights protection, economic security, personal and community support, learning and skills, and health and wellbeing. In addition to these, DRC has agreed to focus on mental health, health and the criminal justice system.

The *2015 Survey of Disability, Ageing and Carers*, estimated that 4.3 million people are living with disability in Australia, with 2.7 million carers. Of these people, 460,000 people are estimated to be eligible for the NDIS. The sustainability of the NDIS will depend on the success of the *National Disability Strategy*, as cost estimates assume that informal and mainstream supports are available to all people with disability, including NDIS participants.

Boundaries between the NDIS and mainstream services are often not clear. This could result in the NDIS bearing unintended costs, and vice versa for other systems.

Effective interaction between the NDIS and other service systems, such as health, housing, education, transport, justice and child protection systems, will help to clarify for NDIS participants how they use NDIS supports in conjunction with other supports services. It will also protect against cost shifting, duplication and service gaps. To date, there is no evidence of large-scale cost shifting from mainstream services to the NDIS, although this cannot be adequately measured.

As governments refocus significant proportions of their disability expenditure towards funding the NDIS, there is the potential for services that are expected to remain in the mainstream to be withdrawn, creating service gaps for people who are not eligible for the NDIS. The States need to demonstrate they are delivering their undertakings to provide continuity of support to clients not eligible for the NDIS, and to ensure all services meet the needs of all people with disability. Measurement and reporting is difficult, and the agreed development of a new reporting framework for the *National Disability Strategy* may assist, and better cross-system reporting generally could make any move away from those services more obvious and consequently more difficult to shift costs. The current Report on Government Services has some reporting on NDIS participants, which, over time, has the capacity to show trends for people outside the NDIS as well as participants.

[27] Department of Social Services, *National Disability Strategy 2010–2020* – Second Implementation Plan, Driving Action 2015–2018

Observation: More could be done to reduce NDIS pressures by strengthening governance and accountabilities across COAG and its Councils to improve the delivery of the *National Disability Strategy*.

COAG has accountability for the NDIS and the *National Disability Strategy*, through DRC, and regularly receives reports and advice on progress and risks. Monitoring and reporting through COAG infrastructure could be strengthened by specific disability reporting across relevant COAG Councils, specifically on the effectiveness of mainstream systems in supporting all people with disability; and improving the interfaces between mainstream services and the NDIS.

DRC could consider proposing this through its regular reporting to COAG, starting with the three agreed priorities for the *National Disability Strategy*:

- mental health services outside the NDIS
- health services for people with disability
- over-representation and lack of support for people with disability in the criminal justice system.

System Responsibilities

The interfaces between the NDIS and mainstream services are guided by the legislative framework for the Scheme (the NDIA Act and Rules) and the *Principles to Determine the Responsibilities of the NDIS and Other Service Systems*, which are supported by *Applied Principles and Tables of Supports*[28]. These principles were agreed by COAG in April 2013 and updated in November 2015. The updated Applied Principles provide greater clarity of roles and responsibilities, which continue to be operationalised. The challenge for the NDIS is that mainstream service offerings will be different in each state. The Principles and Applied Principles are used to guide the decision-making responsibilities of each service system. The NDIS has to interface with a range of different services systems across the eight states, making ongoing complexity a challenge for a new national system.

The Applied Principles, where possible, are given effect through translation into legislated rules. For example, the current NDIS Rules for Becoming a Participant and Supports for Participants, state that the NDIS is not responsible for the diagnosis and treatment of health conditions, including ongoing or chronic conditions. This remains the responsibility of the state-based health systems, which may have different offerings in the management of chronic conditions.

Administrative differences between state service systems pose a challenge to applying a consistent national approach to interface issues and, as transition progresses, the States have raised a number of issues that could benefit from greater clarity, because at the operational level many interfaces are complex, especially as the States withdraw from specialist disability services, which has until now enabled closer local level interfaces. Work

[28] Principles to determine the responsibilities of the NDIS and other service systems (hyperlink)

is underway between the States and the NDIA to map interfaces for participants with complex needs who access a range of services. Currently, New South Wales is working with the NDIA to better understand participants with complex support needs and develop a good practice model that is based on an understanding of current service systems, markets and providers to develop strategies for effective transition of this cohort. A key element of the model will be effective relationships between NDIS providers and interfaces with government agencies and mainstream services.

There may be a risk of costs being borne by the wrong system, and costs arising from gaps and duplication of supports if intersections are not clarified. It has proved very challenging to operationalise NDIS interfaces with mainstream systems in some cohort or market segments.

Other examples where the need for greater clarification of boundaries and interfaces is needed include:

- the Review of the NDIS Act recommended clarifying in the legislation how chronic illness is regarded in a NDIS context, and this has been agreed by COAG and legislation to give effect to the reviews finding will be introduced in 2017
- arrangements for young NDIS participants living in residential aged care facilities need to comply with both NDIS and aged care legislation and funding arrangements, until long-term solutions are in place
- transport supports have been difficult because of in-kind funding arrangements and industry sectors that do not have incentives to register as NDIS providers or adapt business models to individualised funding under the NDIS.

While solutions continue to be worked on, there may be a need in exceptional cases to question the sustainability of agreed responsibilities.

One area that could be reviewed is supports for participants who require support to travel to school. Currently, most participants eligible for school transport as part of their NDIS plan, are receiving in-kind supports from the relevant state. School transport arrangements vary across jurisdictions and regions. The benefits may not outweigh the costs of a solution to school transport for NDIS participants even though NDIS provision of reasonable and necessary school transport supports is in line with the Applied Principles. This review provides an opportunity to examine where the provision of school transport services best sits, in the context of the NDIS and mainstream services having clear boundaries and working effectively and efficiently to provide services and maintain the financial sustainability of the NDIS.

Observation: The benefits may not outweigh the costs of a solution to school transport for NDIS participants.

Impact of transitioning program funding

The NDIS is changing the funding and delivery of disability services provided by the Commonwealth and State governments. As part of the NDIS transition to full Scheme, 17 Commonwealth-funded disability programs are gradually transitioning into the NDIS, because the scope of each of these programs falls within the scope of the NDIS. Clients of these programs who meet eligibility requirements for the NDIS will access reasonable and necessary supports through the NDIS, in line with their plan. Where programs are closing and have current clients who are not eligible for the NDIS, these clients will receive services under continuity of support arrangements.

As governments refocus proportions of their disability expenditure towards funding the NDIS, there is the potential for service gaps to arise. Governments have committed to providing continuity of support for ineligible clients and the States need to deliver on their commitment to do this.

The States have ongoing responsibility for broader disability supports, such as community mental health and advocacy supports, and mainstream services, such as health, education, the justice system, and public transport, and must maintain these supports for the NDIS to be successful.

Information, Linkages and Capacity Building (ILC)

The Scheme is available to provide information, referral services (such as to mainstream services and community support groups and services) and capacity building for individuals, families and communities for those people living with disability who do not meet the access requirements for entry to the NDIS. This is referred to as ILC.

ILC's information and referral services elements help strengthen links between all people living with disability and community and mainstream services. The current jurisdiction-specific transitional ILC arrangements will evolve to a national ILC commissioning approach at full Scheme. Currently, there is limited information on the effectiveness of ILC, and how it is can be effectively and efficiently delivered. It will be critical to provide referral, information and capacity building services cost-effectively, as the number of people accessing these services is potentially very high.

Investment in ILC is intended to complement other government and community supports for all people with disability, and to use these supports to reduce reliance on NDIS funded supports. A key success factor will be how effective the ILC and local area coordination are in facilitating the use of informal and mainstream services or other supports. Currently, the expectations on ILC are high, yet much is unknown, including:

- the optimal investment in initiatives that would achieve the best value and outcomes for NDIS participants and non-NDIS participants

- whether alternative approaches to current policy and funding settings (for example by allowing the movement of funds between funding for individual packages and ILC) would better achieve the intended outcomes for the NDIS
- what level of funding for ILC will deliver the most effective and efficient outcomes
- whether existing ILC-type services delivered by the States and the non-government sector will continue, as anticipated in the initial PC report on the design of the NDIS.

There are views that ILC investment should be maximised during transition as a way to assist people who may not be eligible or who may initially be assisted outside the NDIS before they need to test NDIS eligibility.

Insurance principles support investment in early intervention and prevention, and ILC is intended to deliver this. DSS supports consideration of the timing of ILC funding, and an assessment of funding arrangements. The initial PC report recommended a small, fixed amount for ILC, but options could be explored, such as giving the NDIA greater flexibility to invest in ILC if linked to reducing overall Scheme costs via its insurance approach.

Observation: ILC has not yet been fully implemented, and has minimal funding in the early years. An assessment is needed of whether additional investment from within the existing funding envelope for the Scheme is required in earlier years, and how ILC investment is best used to gain the maximum value and outcomes for people with disability and build Scheme sustainability.

Governance and Risk

Governance controls and risks

The scale of risk increases as the Scheme moves from the trials to transition to full Scheme. The oversight of such a significant scale-up led DRC to appoint a larger, refreshed NDIA Board from 1 January 2017.

DRC is responsible for NDIS oversight and policy. Any new legislative instruments (Rules) must be agreed with all the States, or the affected state where it only applies in that jurisdiction.

This has proved cumbersome and complicated for most rules and other actions, such as making appointments and issuing directions, requiring unanimous agreement by the Commonwealth and the States. This can delay the timely sign-off of amendments, and can potentially impact timely direction being provided to the NDIA. It has impeded agile governance. For example, it took around ten months to finalise a Rule to enable implementation of SDA (capital) payments.

To date, it has not been possible to agree on more agile governance arrangements, to simplify decision and rule-making that would improve Scheme responsiveness and allow the NDIS to be able to flexibly and rapidly respond to emerging risks, both operational and financial. An example of this is the ability to flexibly respond to any future Administrative Appeals Tribunal (AAT) determinations that impact the boundary of reasonable and necessary supports that should be funded by the NDIS. The recent Federal Court decision in relation to the funding of reasonable and necessary transport supports (McGarrigle v National Disability Insurance Agency, 28 March 2017) may be a case in point once the implications of this decision are fully understood.

The States should have an ongoing role in governance, beyond the transition period, even though some states will have fully withdrawn from the provision of specialist disability services. The scale and pace of transition, and time needed for the Scheme to mature, requires agile and responsive risk management. Changed governance arrangements to enable streamlined decision-making would greatly improve the ability for governments, particularly the Commonwealth, to manage risks to Scheme sustainability.

In full Scheme, sustainability has to be managed by those governments bearing most of the risk, to have adequate controls. This is not currently the case. Under current legislative and governance settings, the States have significant roles and responsibilities in setting NDIS policy and funding arrangements and intergovernmental agreements for full Scheme say the Commonwealth is to assume 100 per cent of the NDIS financial risk, or a minimum of 75 per cent, subject to the PC review. However, the Commonwealth lacks sufficient control to manage a minimum of 75 per cent of all risk, especially if the States do not agree, via COAG, to any revised full Scheme escalation rates proposed by the PC. At least until the

Scheme matures, it is preferable for the Commonwealth and States to have risk-sharing arrangements that are commensurate with their policy and oversight responsibilities, and evenly share NDIS risk, as this will give shareholder governments an equal stake in oversighting the Scheme's success.

Observation: Full Scheme risk-sharing arrangements need to be equal until the Scheme matures, and this will require State governments to bear 50 per cent of the risk. To manage Scheme risks, agile and streamlined governance is needed, with more control going to those governments that bear the most risk – currently the Commonwealth Government bears full risk.

National consistency and the NDIS in WA

The Commonwealth's long standing position is for WA to join the national NDIS to ensure national consistency and sustainability. The significant infrastructure and capability being continually developed by the NDIA to support a national NDIS service delivery model will not be fully available to WA under a WA-delivered NDIS. This creates a risk to Scheme costs, including through duplication of resources, even though most of this will be borne by the WA government.

The bilateral agreement signed with WA on 31 January 2017 allows for a WA-delivered NDIS through a separately administered WA NDIS authority, rather than the NDIA. This is an agreement for transition to full Scheme only.

The agreement references key elements including the legislative framework, funding and financing, and risk provisions to safeguard consistency and minimise the risk of NDIS divergence. The Commonwealth will bear up to 25 per cent of cost overruns associated with higher than expected package costs or participant numbers. WA is to remain responsible for quality and safeguards throughout the transition period, and will be expected to move to the new national quality and safeguarding system at full Scheme, on a cost-recovery basis.

The main mechanism for ensuring national consistency is that the WA state-based legislation must mirror key elements of the NDIS Act, including eligibility, choice and control for participants, reasonable and necessary supports, and portability of supports as the rest of the country. This legislation will not be in place for the first stage of transition, when WA needs to take over full responsibility for the NDIS in WA, so the risks of divergence from a national NDIS remain very high.

An additional risk to consistency and sustainability will arise if a different model is implemented in Western Australia (WA), with the Commonwealth preference for WA to be part of the national NDIS delivery model.

Observation: A WA-delivered model for the NDIS creates high risks of divergence, especially as legislation to mirror the NDIS Act is not yet in place.

Market Reform

Market Oversight

The operation of an efficient and effective NDIS market is essential to achieving successful outcomes for participants and sustainable Scheme costs. The *National Disability Insurance Scheme Integrated Market, Sector and Workforce Strategy* (2015) outlines a vision for a robust and mature NDIS market. There are no indications of national or entrenched market issues or workforce shortages specific to the NDIS market, or attributable to the introduction of the Scheme. The NDIS market is affected by market and workforce issues existing prior to Scheme commencement and not unique to the disability sector.

The NDIS market consists of a range of geographic and service sub-markets, some of which need to expand rapidly to meet growing participant demand, including personal care support, early childhood support, employment support, and SDA.

This market will take time to mature. With just 16 per cent of participants in the Scheme, all governments agree ensuring the NDIS market grows at a sufficient pace to meet expected growth in participant demand throughout transition and into full Scheme is a key priority.

Observation: The NDIS market is adjusting and developing towards full Scheme implementation, with significant workforce growth needed to meet demand at full Scheme**.**

All governments, the NDIA, the sector and participants have roles to play in developing an NDIS market. DSS provides a market oversight role and reports on the effectiveness of the NDIS market, including market trends and outcome quality. This role complements the NDIA's market stewardship in highlighting national, regional or local market risks and mobilise government responses where necessary.

The States are supporting the disability sector to transition to the NDIS market, including moving services previously delivered publicly or block-funded to competitive market models. The States are responsible for quality and safeguards for participants during transition, including registering providers to deliver NDIS services.

A significant limitation to assessing the NDIS market readiness is the availability of market and workforce data. DRC has agreed Market Key Performance Indicators to monitor NDIS market performance and identify emerging market risks and, as the Scheme matures, will assist the NDIA with identifying risk requiring intervention.

Workforce Readiness

The disability sector workforce is estimated to more than double to meet full scheme demand, from an estimated 73,600 full-time equivalent (FTE) workers as at July 2013 to 162,000 FTE workers in 2020. Competition to attract and retain a skilled and flexible workforce will increase as growth occurs in related sectors, health, aged care and early childhood education. There is steady workforce growth across these sectors over the past decade that will assist to address the estimated additional workforce requirements at full Scheme.

Research indicates variance in the growth required to meet demand across geographic sub-markets. The NDIA's Market Position Statements highlight significant workforce growth is required in some locations across all States. For example, the NDIA estimates the Queensland workforce will need to more than double by 2018–19 to meet increased demand under the NDIS[29]. Workforce Profiles completed for the Mackay and North Queensland regions by WorkAbility QLD indicate demand for NDIS workers cannot be met by existing workforce or enrolled students in the regions. National Disability Services also reports workforce constraints are limiting growth in the sector, with organisations reporting difficulty recruiting and retaining employees, particularly speech therapists and occupational therapists[30].

Other areas of expected workforce shortage in the disability sector include: paediatric-specialist allied health professionals; support coordination services; personal care and disability support workers; positive behaviour support practitioners; and specific allied health professionals in geographic sub-markets.

Recruiting and retaining workers is primarily the responsibility of employers and service providers, however the Commonwealth, the NDIA, and the States are supporting providers to transition to the NDIS. The Commonwealth's Sector Development Fund (SDF) has funded 16 projects at the national and state level to help providers build their workforces, including in the area of allied health.

The SDF $5 million Innovative Workforce Fund (IWF) will have an important role in workforce growth during 2017–19.

The Department of Employment is preparing job seekers and employment service providers to meet sector demand. This includes engaging NDIS employers; trialling approaches to up-skill job seekers; and raising awareness of the opportunities in the sector by delivering NDIS provider briefings.

A regional market transition support initiative, announced in June 2016, is assisting providers to diversify and adjust their operations to remain competitive under the consumer choice model.

[29] National Disability Insurance Agency (May 2016) *Queensland Market Position Statement*, accessed from ww.ndis.gov.au website, 15 March 2017.
[30] National Disability Services (2017) *Results: Disability Markets Survey 2016*.

Governments need to continue to work in partnership with industry and education providers to build an adequate supply of new workers to enter the NDIS market. This includes communicating the value and considerable career opportunities available to graduates to work in the sector; availability of student clinical or practical placements; building capability for culturally competent service delivery as a standard element of student training and education; and promoting the opportunities of working in rural and remote communities.

Work is underway to expand the allied health workforce into the disability sector, including to:

- prepare graduates adequately to work in the NDIS
- provide high-quality placements and professional development
- build the Indigenous allied health workforce.

Scope exists for technology to improve efficiency within the disability sector. Innovative arrangements to engage or schedule disability workers could help to provide flexible services that are responsive to participant need and demand, and provide greater opportunities for workers, such as sole traders, to engage with the Scheme. Technological solutions, including the use of cloud-based technology and e-Market platforms, could help to address thin market or workforce shortage risks through new service delivery or worker engagement models.

Workplace Relations

For NDIS participants and service providers, flexibility in disability sector awards and agreements is important. Flexibility means that participants can get services when they need them and service providers can provide those services in ways that suit their business. This is particularly important for the NDIS which sets out a new, client-centred service model for people with disabilities.

The Fair Work Commission is currently reviewing the Social, Community, Home Care and Disability Services Industry Award 2010, which applies to most workers in the disability sector. This review is considering a range of issues that may have an impact on the cost and delivery of services in the NDIS.

Provider Readiness

Provider interest in the NDIS market has been positive. The NDIA reports strong growth in registered providers between 30 June 2016 and 31 December 2016 from around 3,500 providers to more than 5,000[31] as a result of providers registering ahead of roll-out in their area. Improving available market demand data and information would assist providers to adopt NDIS market opportunities to meet demand in their area.

[31] NDIA, National Disability Insurance Scheme, COAG Disability Reform Council Quarterly Report, 31 December 2016.

Early anecdotal evidence suggests market growth may lag behind participant growth in some sub-markets, such as personal care support, participants with complex needs, early childhood, and employment supports. Thin markets are likely to be more sustained or pronounced in regional and remote areas and for specific cohorts such as Indigenous or Culturally and Linguistically Diverse (CALD).

Nationally, around a third of participants are partially or fully self-managing their plan — an important participant choice and control design feature. A similar proportion is accessing intermediary financial and service advice or funded coordination supports. Early data indicates two-thirds of participants are activating their plans within 30 days. However, participants are only using around three quarters (73 per cent) of their plan budgets.

Market signals will be muted while participant capacity to exercise choice and control builds and while in-kind supports are provided to participants in some sub-markets. An example is the SDA support which is designed to address insufficient supply. This is a payment for capital costs to providers to contribute to the increased costs of providing specialist housing, including a contribution to the maintenance of the dwelling. The payment seeks to encourage long-term investment and increase the number of dwellings available. Given this long lead-in period, and indications that an SDA property can take up to two years from conception to construction, there has been minor movement in the market from new providers to date. Conflating this is the complex operational environment for SDA during transition to full Scheme, including registration and enrolment of existing SDA providers and dwellings, and the establishment of quality and safeguarding arrangements. Despite this, anecdotal feedback from financial institutions, housing organisations and the residential development sectors indicate the pricing offered through the payment is adequate, and there is strong interest from new SDA providers to register with the NDIA.

The potential exists for thin markets to eventuate as in-kind supports are transitioned to market-based models — unless strategies and investments are implemented in time for the market to adapt to offer these services. National Disability Services reports more than a third of providers indicate they are unable to meet participant demand, and one in five believed participants that were turned away will receive no services[32].

As participants exercise choice and control, providers are transitioning from block-funding arrangements to receiving individual payments after services have been provided rather than receive funding in advance. In many instances, this means existing business models and support systems need to be restructured. There is evidence to suggest many providers are transitioning well while others are having difficulty adjusting. Some of the not-for-profit providers are considering restructuring or amalgamating. This is due to requirements for increased working capital brought about by the payment in arrears arrangements under the new model. This dynamic could lead to small not-for-profits vacating the system in favour of larger commercial organisations with access to capital.

[32] National Disability Services (2017) *Results: Disability Markets Survey 2016*.

As the Scheme matures, governments need to closely monitor market concentration to ensure adequate competition exists to drive innovation and lower service costs. Larger providers may seek to grow their market share through integration and mergers as smaller providers grow and become more profitable. These activities will dampen competition within the market. Early data indicates a market concentration greater than 80 per cent in some service sub-markets.

The NDIA will conduct a Request for Information (RFI) process to gather advice from industry stakeholders about innovative solutions and commercial models to deliver the NDIS eMarket Place to assist providers to reach their participants.

New providers may be discouraged from entering the market due to inconsistent state regulatory requirements, registration difficulties, uncertainty around requirements at full Scheme, and the timing of NDIS implementation. The regulatory framework governing the NDIS market will need to strike an appropriate balance to incentivise innovative services and service delivery, while maintaining protections for participants and minimising incentives for providers to engage in fraudulent or sharp practices. A flexible, modern regulatory system is required to allow for co-regulatory or self-regulatory models to evolve as industry associations in the sector build their capacity and capability to undertake these roles.

Disparate and uncoordinated quality and safeguarding arrangements create risks during transition to full Scheme, including de-registered providers in one jurisdiction continuing to be registered and delivering services in another jurisdiction.

Improved information sharing about provider registration status, and changes to this status is required between all State governments and the NDIA during transition to mitigate these risks.

Arrangements also need to be in place during transition to mitigate fraudulent and sharp practice risks as the national quality and safeguarding arrangements are delivered.

Observation: Quality and safeguarding risks, including for fraud and sharp practices, are high during transition as the national quality and safeguarding arrangements are being designed and delivered. The States remain responsible for this function during transition.

Governments are working towards developing a regulatory framework to strike this balance. The *NDIS Quality and Safeguarding Framework* (2016) seeks to help participants and providers access information and resolve issues quickly, and strengthen the capability of participants, the workforce, and providers to participate in the NDIS market. It is designed to suit the emerging market-based system in which participants are building their capacity to act as informed consumers, the workforce is growing rapidly and new providers are entering the market.

Given the scale and scope of the regulatory changes required, the timeframe for implementing new, national arrangements is very tight. States need to maintain responsibility and capability until the national system is implemented, as set out in intergovernmental agreements.

Price regulation

Price regulation is an effective tool for governments to ensure participants receive value-for-money services and to contain Scheme costs in a maturing market. Government price intervention may unnecessarily impede or prolong open market development.

The need for price regulation may diminish after the first decade of full Scheme operation. Price deregulation will be a policy decision for the Government in the context of Scheme sustainability and NDIS market maturity. A NDIS pricing framework could be administered by an independent pricing authority to guide price regulation with reference to:

- Scheme sustainability
- government pricing models for related services
- sub-market readiness for an open market
- supporting providers to transition to an open market
- encouraging productivity and efficiency in the disability sector.

Observation: In the short term, the NDIA is best placed to continue to set NDIS prices, for all NDIS providers. In the medium term (ideally within the next five years), an analysis of price-setting and whether an independent pricing authority is required, would inform long-term policy.

Final Comment

Australia is one of a few countries to have committed to insuring the entire population for the risk of significant disability and to guarantee people with disabilities receive reasonable and necessary supports to achieve their goals. The current phase of the NDIS will be among the most challenging as it involves moving large numbers of people from the old complex systems to the NDIS. DSS appreciates the effort and patience of people with disability, along with their families and carers, who navigate the new system and who work with the NDIA and governments to advise on Scheme design and implementation. DSS is committed to supporting the Commonwealth Government to meet its commitment to fully and sustainably fund the NDIS and to continuing to work with people with disability and their advocates to ensure the NDIS delivers for them.