# Productivity Commission

## Inquiry into the National Disability Insurance Scheme (NDIS) Costs

## Response to the Position Paper

*Young People In Nursing Homes National Alliance*

**July 2017**

## Introduction

The Alliance recognises the work of the Commission in delivering the Position paper and representing many of the key issues of concern in the implementation of the NDIS. We welcome the opportunity to respond to the position paper and in this submission we address the recommendations and information requests that relate to the issues faced by people with complex needs and also the matters we raised in our first submission to this review.

The NDIS is a complex scheme to implement and it has already created significant waves of change in the disability sector. For the scheme to achieve its objectives, this change must extend to other service systems and the ways they interact with people with disability and also the disability funding system. The NDIS risks becoming another funding silo unless governments and the scheme itself begin to look outwards and create structural engagement between community service systems and the scheme; and develop collaborative policy and service initiatives. We believe that while the boundary and interface issues comprise some of the most significant risks the scheme will be required to manage into the future, they also contain the greatest opportunity to drive the success of the reform.

The NDIS legislation was drafted to create the scheme to go into a trial phase and with an expectation that the design of the scheme would need to be adjusted, based on the trial experience. Four years beyond the launch of the NDIS, the position paper has highlighted a number of areas where adjustments to the scheme's design are required. It is important that the remaining analysis in this review focuses on what the scheme needs to deliver once it is fully implemented and the capacity it requires to be fully effective.

The Alliance is keen to support this review and will provide more information if required.

**INFORMATION REQUEST 4.1**
**Is the National Disability Insurance Scheme Act 2013 (Cwlth) sufficiently clear about how or whether the 'reasonable and necessary' criterion should be applied? Is there sufficient clarity around how the section 34(1) criteria relate to the consideration of what is reasonable and necessary?**

**Is better legislative direction about what is reasonable and necessary required? If so, what improvements should be made? What would be the implications of these changes for the financial sustainability of the scheme?**

The Alliance believes that its 'reasonable and necessary' feature is fundamental to the design of the NDIS and must be retained. This feature is essential to the individualisation of supports as it relies on engagement and negotiation about individual needs to arrive at funding decisions. The alternative is a rule bound process that would limit this focus.

Because the inclusion of this term is a significant change from the old rule bound and rationed disability support systems, it is not surprising people and programs are taking time to adapt to the new requirements. This adaptation is just one element of the change process created by the NDIS.

While compensation schemes have successfully managed this feature and built their decision making structures around it, the NDIS is yet to refine its processes in the same way. The use of reasonable and necessary relies on accessing good information on which to base decisions, both from participants and providers: areas that the NDIS has failed to resource adequately to date.

S34 (f) of the NDIS Act (2013) requires the consideration of reasonable and necessary supports to include a determination of whether a support is better provided by another service system. NDIS planners have not routinely included consultation with other systems in their process. As a result, service gaps have emerged when the NDIS sees a service response as the responsibility of another service system and refuses to fund it; and the other service system has no capacity to fund the support, so it goes unfunded. Planners must be better educated and supported to engage collaboratively with mainstream programs. While the Commission rightly identifies the planning process as a dynamic, its current application does not enable plans to be negotiated or integrated where needed.

Where a participant's health and disability support needs are inseparable, or where health needs must take primacy to ensure the well being of the individual, it is appropriate for a health team to have direct input into NDIS integrated planning processes and even guide the planning process itself.

Where a support is deemed to be out of scope for the NDIS under S34(f), NDIS plans need to note this and contain an action about how this support is to be secured for the participant. It is important that NDIS planners do not disregard these unmet needs. Changes to the planning process should introduce a requirement for planners to provide evidence of negotiation with mainstream programs and providers in making their plan decisions where indicated.

**DRAFT RECOMMENDATION 4.1**
**The National Disability Insurance Agency should:**
**• implement a process for allowing minor amendments or adjustments to plans without triggering a full plan review**
**• review its protocols relating to how phone planning is used**
**• provide clear, comprehensive and up-to-date information about how the planning process operates, what to expect during the planning process, and participants' rights and options**
**• ensure that Local Area Coordinators are on the ground six months before the scheme is rolled out in an area and are engaging in pre-planning with participants**

**Plan adjustments**: The planning system must be changed to enable adjustments without the need for a full review and replacement plan to be developed. This 'dynamic plan' model should be the default position and criteria need to be developed to guide decisions about when a new plan is needed.

**Phone planning**: Face to face meetings must be the default position for all planning. Phone planning should only occur when expressly requested by participants or their representatives.

**Information about planning processes:** This must be part of the engagement the NDIS has with every participant.

**Local Area Coordinators (LAC):** LAC should not be the focus for regional rollout preparation. The NDIS must engage directly with all mainstream programs, local government agencies, and disability providers and participants in each region. These activities cannot be delegated to contractors. The current LAC role is a contrived function that is not an effective substitute for existing community sector networks. Direct engagement by the NDIS with entire regions and communities is a preferable approach.

**INFORMATION REQUEST 4.2**
**Should the National Disability Insurance Agency have the ability to delegate plan approval functions to Local Area Coordinators? What are the costs, benefits and risks of doing so? How can these be managed?**

The original notion of the Local Area Coordinator (LAC) was an individual or entity that had considerable community connection and capacity to 'link' scheme participants with the services and opportunities available in their "local area". In supporting scheme participants to interact as citizens in their access of local services and opportunities, the NDIS looked to achieve its social and economic ambitions for scheme participants. By engaging with mainstream and other community areas, the scheme also hoped to avoid duplicating already extant community services.

Unfortunately, this original view of the LAC has been perverted. As well as its original intention of connecting people with local initiatives, the LAC role can now, for example, embrace planning and plan preparation as well as some community preparation. The LAC model has also been implemented in different ways in different jurisdictions, leaving its essential purpose confused.

While this is a transitional issue during scheme implementation, the relevance of the LAC role at full scheme is questionable. Replacing or usurping an intact community service system where well developed community relationships and networks already exist, with a series of contrived models concerned essentially with delivering NDIS functions, is counterproductive. Consideration should be given to utilising existing community organisations for the community linking and capacity building roles

previously ascribed to LACs, as many people with disability already have connection and trust with these organisations.

Such a model would enable the advantages and points of leverage identified by the Commission in Chapter 4 of its 2011 report to be realised.

**DRAFT RECOMMENDATION 4.2**
**The National Disability Insurance Agency should ensure that planners have a general understanding about different types of disability. For types of disability that require specialist knowledge (such as psychosocial disability), there should be specialised planning teams and/or more use of industry knowledge and expertise.**

The NDIS should develop cohort specific responses that include pre planning, planning and plan implementation (including coordination of supports); service delivery (including multi program service delivery); access to community and industry networks; provider management (including providers from multiple programs); and tailored funding models.

Cohorts such as the Young People In Nursing Homes group (YPINH), individuals with psychosocial disability or young children, are likely to require particular, multi program, integrated planning responses. As well as requisite expertise in working with the cohort specified, personnel working with these cohorts must have acknowledged expertise in working across program boundaries and with non disability (mainstream) programs to ensure that contribution from these programs can be included in an integrated NDIS plan.

Some mainstream programs have capacity to successfully undertake this role and should be considered. Health programs that use a multidisciplinary approach to manage the health and disability needs of their patients are, for example, ideally placed to undertake planning and plan implementation in partnership with the NDIS and the scheme's planners; or as registered planning agents themselves.

**DRAFT RECOMMENDATION 5.1**
**Funding for Information, Linkages and Capacity Building (ILC) should be increased to the full scheme amount (of $131 million) for each year during the transition. The funds that are required beyond the amounts already allocated to ILC to reach $131 million should be made available from the National Disability Insurance Agency's program delivery budget.**

**The effectiveness of the ILC program in improving outcomes for people with disability and its impact on the sustainability of the National Disability Insurance Scheme should be reviewed as part of the next COAG agreed five-yearly review of scheme costs. The ILC budget should be maintained at a minimum of $131 million per annum until results from this review are available.**

The ILC has become a poorly defined and targeted program that is tasked with funding capacity building activity;, and with operating as a liability control mechanism for the scheme. The Alliance sees this as a fundamental conflict of interest. The presumption that, by itself, the ILC can resolve longstanding policy and service gaps for the scheme and its participants is deeply flawed.

The ILC is not a substitute for the Productivity Commission's original conception of Tier 2 of the NDIS, although this appears to be its current conception. A broad based community sector capable of providing a range of supports to Australians with disability is what the Commission envisaged in 2011. The ILC does not in any way fulfill this vision.

The ILC is often conflated with mainstream interface development, something Chapter 6 of the Position Paper reiterates. Yet the ILC and its awareness raising and capacity building activity is not sufficient to address the structural policy and practice gaps that exist between programs and the NDIS; and between the programs themselves.

Creating the expectation that the ILC will solve these very difficult cross sector policy gaps diminishes their importance, not only to the NDIS, but also in the context of the National Disability Strategy.

To date, ILC grants have largely been given to disability organisations who want to 'educate' mainstream services about how to work with people with disability. Without government level policy reforms guiding funding, practice and strategic priorities in those program areas, these projects will have minimal impact at best.

Mainstream sector policies and practices are driven by factors other than disability. Unless the NDIS reform can create an impetus for policy reform at the policy, service and individual levels operating within mainstream programs, then ILC projects such as those funded in the recent grant round will remain tokenistic and ignored by the very programs they are attempting to influence.

As it currently stands, the ILC program lacks definition, discipline and rigour. Funding priorities must be based on evidence and consultation with mainstream programs, while evaluation processes need to include peer review and input from the mainstream area that is the subject of the funding request.

The Alliance believes the ILC could be an effective grant making program focusing on community capacity building. But it must be better targeted and made independent from the NDIS to do so. As a separate program, an independent statutory body should manage the ILC. An independent ILC grants program could operate in ways similar to the National Health and Medical Research Council (NHMRC) and Australian Research Council (ARC).

As long as the ILC remains within the NDIS, it will lack process rigour and be vulnerable to significant conflicts of interest. Achieving outcomes for people with disability and

prioritising scheme sustainability are competing interests that must be carefully balanced.

The PC's description of Tier 2 as an area in which the NDIS would "…provid[e] linkages and referrals to relevant services for which the NDIS was not directly responsible, such as mainstream services and community support groups and services"[1] and "…strengthen voluntary links between the community and people with disabilities…"[2] must be reinvigorated. Tier 2's goals, the PC said, would be to "…increase, rather than crowd out existing formal and informal arrangements."[3] Governments must indicate how they anticipate this can now be undertaken across the community sector.

The ILC has not only been a poor representation of this aspect of the NDIS, but has distracted attention from the important companion reforms to community programs that are needed. Under this cover, jurisdictions have closed essential programs that need to exist in the Tier 2 environment.

To address this, governments must return to the original intention of Tier 2 and "continue to support a range of community and carer support services, including some existing or modified Home and Community Care services, for people with lower level or shorter-term disabilities."[4]

**DRAFT RECOMMENDATION 5.2**
**The Australian, State and Territory Governments should make public their approach to providing continuity of support and the services they intend to provide to people (including the value of supports and number of people covered), beyond supports provided through the National Disability Insurance Scheme. These arrangements for services should be reflected in the upcoming bilateral agreements for the full scheme.**

**The National Disability Insurance Agency should report, in its quarterly COAG Disability Reform Council report, on boundary issues as they are playing out on the ground, including identifying service gaps and actions to address barriers to accessing disability and mainstream services for people with disability.**

The Alliance supports the recommendation.

Implementing this recommendation is a complex piece of work that requires a clear strategy across all participating governments and the NDIS. It is important that sector peak bodies from disability and mainstream service areas participate in the formulation and execution of this strategy to ensure a comprehensive approach.

[1] Productivity Commission Vol 1: 12
[2] Op Cit: 13.
[3] Ibid.
[4] Ibid.

It is not enough for governments alone to commit to a workplan as this can be slow and timelines can easily slip. The involvement of the sector peaks can add urgency and important insights into the strategy.

The NDIS reporting on boundary issues and service gaps will need to be supplemented by complementary reports from mainstream programs themselves, sector peaks and people with disability organisations. Currently the NDIS does not have full visibility of the service gaps they are creating, so their reports cannot be definitive on these matters. They do not document non-NDIS services or service gaps in individual plans or have any formal negotiations with mainstream providers in NDIS regions where service gaps can be recorded. This could be addressed with the suggested improvements to joint planning with other programs, but the data deficiency needs to be noted.

**DRAFT RECOMMENDATION 5.3**
**Each COAG Council that has responsibility for a service area that interfaces with the National Disability Insurance Scheme (NDIS) should have a standing item on its agenda to address the provision of those services and how they interface with NDIS services. This item should cover service gaps, duplications and other boundary issues.**
**Through the review points of National Agreements and National Partnership Agreements under the Federal Financial Relations Intergovernmental Agreement, parties should include specific commitments and reporting obligations consistent with the National Disability Strategy. The Agreements should be strengthened to include more details around how boundary issues are being dealt with, including practical examples.**

The Alliance supports this recommendation.

Having the NDIS as a standing item on each COAG Council responsible for service areas that interface with the NDIS, is an important first step in engaging these councils in the policy challenges that they share around the implementation of the NDIS.

It is vitally important that these Councils are well resourced and curated by a central agency so that that NDIS issues do not become tokenistic agenda items. At present, this would fall to the DRC. However, if the NDIS moves to the Treasury portfolio, resourcing would become the responsibility of the Treasury.

Issues discussed within these fora must be focused on improved collaboration between mainstream portfolios and the NDIS and be directed away from a cost shifting focus. The National Disability Strategy (NDS) is a related and important topic that will necessarily be linked to discussion concerning these agenda items. We support the recommended reporting arrangements, noting that we are in the final quarter of the NDS and some thought will be needed around how core elements of the NDS are translated beyond 2020.

**INFORMATION REQUEST 5.1**
**The Commission is seeking feedback on a mechanism to ensure that the States and Territories bear the cost of participants who were intended to be covered by the National Injury Insurance Scheme.**

The NIIS is an essential part of the NDIS reform and must be fully implemented.

The Alliance fundamentally disagrees with the Commission's consideration of a mechanism to ensure that the states contribute additional monies to compensate for the absence of a fully implemented NIIS. The challenge is to confirm the commitment of the jurisdictions to implement the NIIS as a matter of urgency.

While in the absence of the NIIS, the NDIS might fund the disability supports injured individuals require and invoice the states for full cost recovery of these supports, the NDIS cannot deliver the medical and rehabilitation services that catastrophically injured people will require to support their recovery. Without this input, injured people will be denied the chance to maximise their independence; experience poorer health and well being outcomes; and deliver increased support costs to the NDIS over the life course.

As the NDIS will seek full cost recovery from the jurisdictions, the latter will pay handsomely for a less efficient but more costly response. Failing to fully implement the NIIS across its four injury domains is a false economy.

At its June meeting, the COAG decided to indefinitely defer the medial injury stream of the NIIS and has requested a report about the feasibility of the general accident stream to be available at its January 2018 meeting. The implication in these requests that the remaining streams of the NIIS are not required and the NDIS can be left to manage those who suffer injuries in these remaining areas, is deeply flawed.

Delivering these remaining streams requires dedicated policy formulation and political commitment. The lack of either is insufficient excuse for failing to deliver the NIIS.

Should the NIIS not proceed, the already significant gap in rehabilitation services in Australia will intensify. The opportunity the NIIS offers jurisdictional health departments to invest in improved rehabilitation capacity for people suffering catastrophic injuries will be lost.

In this event, the NDIS will face the impossible task of convincing mainstream health programs to address the significant service gaps this lack of rehabilitation capacity will deliver. The reality is that it cannot.

With the NDIS depending on the presence of the NIIS for its financial sustainability, these ground breaking schemes are inextricably linked. The PC's recommendation that governance responsibility for the NDIS be moved from the Department of Social

Services (DSS) to Treasury, would locate both programs in the same portfolio and offer greater awareness of each other's importance. Such a move would also give the NDIS board greater visibility of the NIIS development.

Until this occurs, the NDIS should be invited to join the NIIS Senior Officials Group. This group should be required to report to the Disability Reform Council (DRC) and the NDIS Board as well as the Treasurers.

Finally, an inquiry by the Joint Standing Committee on the NDIS into the NIIS would shine a much needed light on the work of the NIIS Senior Officials Group and reveal the barriers and policy dilemmas facing the NIIS.

**INFORMATION REQUEST 8.1**
**Is support coordination being appropriately targeted to meet the aims for which it was designed?**

The Alliance believes that support coordination is not being well implemented. This is for two reasons. The first is that the NDIS plans do not contain detail about areas of crossover with health or aged care supports, so support coordinators are poorly briefed. The other is that support coordinator workforce is generally poorly skilled.

The Alliance has worked with several support coordination agencies that have self-declared their expertise in supporting particular cohorts such as individuals with psychosocial disability, YPINH, or participants with complex needs. In nearly all cases, these agencies have approached this role as if it was old style case management. They have failed to understand the Support Coordination role as one of assisting the participant to make decisions about selecting service providers, undertaking a contract, linking with community and mainstream services. Not only have workers significantly lacked capacity to engage with the NDIS participant to implement their NDIS plan, they have also lacked any knowledge and understanding of mainstream programs where engagement with these programs is required as part of plan implementation arrangements.

In one case, three separate support coordination agencies had to be engaged, one after the other, before the plan could be implemented. The Alliance had to spend considerable time, effort and money to build the capacity of the third agency and its worker to enable plan implementation to be undertaken at all. The Alliance has had to remain involved to ensure that relationships between the mainstream programs concerned, the disability provider and the Support Coordinator have been maintained.

The Alliance remains concerned about the vulnerability of many scheme participants with complex needs and cognitive impairment needing to commission services or to make choices without adequate support. The presence of support coordinators alone is not addressing the risks in this area.

We addressed support coordination in our submission to this review including recommending block funding of specialist organisations to undertake Coordination of Support for specific cohorts, including people with complex needs.

**INFORMATION REQUEST 8.2**
**Is there scope for Disability Support Organisations and private intermediaries to play a greater role in supporting participants? If so, how? How would their role compare to Local Area Coordinators and other support coordinators?**
**Are there any barriers to entry for intermediaries? Should intermediaries be able to provide supports when they also manage a participant's plan? Are there sufficient safeguards for the operation of intermediaries to protect participants?**

The place of community organisations and single issue support and diagnosis specific agencies has been unclear in the rollout of the NDIS. The Productivity Commission's 2011 report had an entire chapter on the role of community sector organisations and the valuable role they could play in the NDIS reform, but this has been largely overlooked in the scheme's implementation.

While the development of the market for disability supports and a responsive workforce has been a high priority for the scheme, a significant number of community organisations do not fit into the 'market' as they operate as civil society organisations rather than service providers. There are important roles for this non-provider sector in the rollout of the NDIS, including supporting their members to understand and negotiate with the NDIS and offering their extensive community networks to link people to community. These organisations can deliver quality information and generate community connections through volunteerism and community linkages that paid support services simply cannot deliver.

As the PC's 2011 Report notes, these community connections can provide significant leverage to the NDIS and increase opportunities to people with disability. The NDIS and governments need to acknowledge that there are non-market imperatives to engage these organisations and to ensure they are maintained and funded to deliver these benefits. These organisations have a strong relationship with their members; understand their issues and experiences; and are well placed to support them with the NDIS.

The DSO project funded by the NDIS to build capacity of people with disability transitioning to the NDIS was limited to the delivery of peer support networks. While this has been a highly successful project, its narrow focus and short term funding has not utilised the full capacity of these organisations to assist their members and the scheme. Despite this, the 19 funded agencies have demonstrated the importance of capacity building for people with disability and peer led initiatives by such community organisations.

There is much more that organisations like these can do in the context of the NDIS. Ideally, they should be undertaking planning and review (including seeking approval

from NDIS delegates), local area coordination, information provision and community linking in addition to ongoing capacity building. There is also an important service development and innovation role for community organisations in working with members to identify opportunities to create new types of support.

In its submission to the PC's 2010 inquiry, the Alliance proposed a scheme design that created a structural role for member based non provider community organisations as the front end of the scheme. These entities would be block funded and have designated functions such as planning and information provision; and be able to play a role in provider management.

The creation of a structure that enables these organisations to play key roles in the scheme is something that needs to be seriously considered in the work on market development.

**INFORMATION REQUEST 9.1**
**The Commission is seeking feedback on the most effective way to operationalise slowing down the rollout of the National Disability Insurance Scheme in the event it is required. Possible options include:**
- **prioritising potential participants with more urgent and complex needs**
- **delaying the transition in some areas**
- **an across-the-board slowdown in the rate that participants are added to the scheme.**

**The Commission is also seeking feedback on the implications of slowing down the rollout.**

The Alliance does not support the slowing of the rollout of the NDIS. It is important that people with unmet need have access to funding and support as quickly as the rollout will allow.

There has been limited capacity to bring people with complex needs and exceptional circumstances into the NDIS ahead of the rollout and phasing schedule in some jurisdictions. Despite these limitations, the Alliance has found the advent of the NDIS to be of significant benefit where people have had very long stays in hospital; or are facing imminent placement in residential aged care in the absence of the scheme.

However, access to this entry point to the NDIS has been limited and sometimes difficult to activate. We would like to see the bilateral agreements amended to increase the capacity for this group of people to access the NDIS in a timely manner and as their needs demand.

As is perhaps inevitable with such a major undertaking, the speed of the NDIS rollout has created administrative and operational challenges. More resources should be provided to the NDIS to cope with the demands of the transition. In addition, the NDIS could delegate planning functions for people with complex health needs to specialist health services. This would save resources and potential duplication for this group.

We cover this approach in more detail in our earlier submission to this review.

Of greater concern is the rate at which the existing state service infrastructure is being collapsed as the NDIS rolls out. While this has been well highlighted in mental health, it is an escalating problem for rehabilitation services, transport and other services that have been closed as they are cashed into the NDIS. Some jurisdictions have moved faster than others. But the loss of systemic capacity that these closures create is having a vey real and very negative impact on participants and the service workforce they rely on.

Rather than slowing the scheme rollout, the Alliance recommends a moratorium on the closure of existing state and federal funding programs that the scheme may replace, until a clearer picture of the service landscape is possible at full scheme.

In many cases the NDIS cannot provide the same type of support as these programs. Yet the funding required by the States/Territories to fulfill their commitments to the NDIS has meant that this is a secondary consideration.

Our earlier submission to this review relates how this has affected scheme participants with ABI who were clients of the Victorian Slow to Recover ABI Rehabilitation Program (STR).

As these individuals transitioned to the scheme, they lost their rehabilitation because the NDIS does not fund this input; and the STR program disappeared behind them as its funding was committed to the NDIS.

This exemplifies the anomalies that are confronting people entering the scheme.

**Information request 10.2**
**The Commission is seeking information on the best way to align the ability to control cost overruns with the liability to fund cost overruns. Possible options include:**
**• estimating the proportion of cost overruns that the Australian and State and Territory Governments are responsible for and allocating funding responsibility accordingly**
**• altering the governance arrangements of the National Disability Insurance Scheme to give the Australian Government greater authority to manage the risk of cost overruns, to better reflect their funding liability.**

Because the Australian Government has greater capacity to meet cost escalation than the States and Territories, it should remain responsible for defined cost overruns. While safeguards against cost shifting from the States and Territories must be in place, the engagement of other COAG Councils recommended by the Commission will ensure that deep and detailed discussions in and across portfolios occur regarding containment of costs and realisation of efficiencies through collaborative initiatives.

Continuing to view the NDIS as a single program reform and thinking of it purely in

terms of activity within the disability services portfolio is reductive. Costs and liabilities can be managed better if a cross portfolio approach is taken. This does require leadership and locating this as well as financial liability with the Australian government, provides an incentive to all parties to remain actively involved in boundary issues and communicate maturely with other co-owners of the scheme.

This arrangement would need clear agreement on what is considered a cost overrun and what is normal cost escalation in this type of scheme. The NDIS will have to grow its funding and its capacities in line with the growth of the Australian population. For this reason, the scheme's revenue and liability projections will need to be dynamic. While $22 billion is the current estimate based on a projected number of participants, this is not a cap and so normal growth parameters should not be seen as a cost over run.

In our submission to this review, we recommended that responsibility for the NDIS must move from the Department of Social Services to the Council on Federal Financial Relations. As central agencies, treasuries have greater visibility of mainstream programs than agencies represented in the Disability Reform Council and could better drive cross program collaboration with the NDIS.

Finally, the difficulties created by the introduction of a federated funding and governance model have created many of the implementation challenges detailed by the Commission in the position paper.

In its 2011 Report, the Commission's model for the NDIS was that the Australian Government would be the sole funder of the scheme. Governments' subsequent design of the scheme did not follow this recommendation, preferring a federated model of joint funding and ownership by the jurisdictions instead.

Unfortunately, this design has simply transferred many of the long standing commonwealth/state conflicts found in the previous Commonwealth State and Territory Disability Agreements (CSTDA) to the NDIS.

While this is unlikely to change in the short term, the Alliance notes that a reversion to a single funder model is something that could be considered in future if the current governance challenges become unresolvable.

## Other issues

**Redrafting the COAG Principles**

Instead of their perceived insistence on drawing hard lines between programs, the Alliance believes that the COAG's *Principles to determine the responsibility of the NDIS and other service systems* must be redrafted to support service system collaboration with the NDIS.

We agree with the Commission's statement that

> *The interface between supports for people with disability will take time to determine at the coalface, but until these interfaces are settled, it is important that governments do not withdraw from services too quickly, as any gaps that emerge will place added burdens on people with disabilities and their families.*[5]

However, there is more to delivering proactive interface arrangements than the transition of previously block funded programs into the NDIS. Governments must, for example, resource detailed negotiations with the NDIS about the governance arrangements needed at the boundaries of the scheme.

In this respect, we do not agree with the Commission's statement that governments should set clear 'operational boundaries' between programs and the scheme.

> *Governments must set clearer boundaries at the operational level around 'who supplies what' to people with disability, and only withdraw when continuity of service is assured*.[6]

Embedded in the COAG Principles, this sentiment effectively locks in the current, siloed nature of service systems and denies the significant opportunity the NDIS offers for broader human services system reform.

Instead of a concern with hard boundaries, interface arrangements must be primarily concerned with how programs can collaborate with each other to share risk and responsibility and enable coherent service pathways for people. These service pathways can create mutual benefit to the programs involved as well as delivering better coordinated services and superior outcomes for service users.

Encouraging key programs to be "flexible" in their interpretation of the COAG Principles is simply not enough to deliver the collaborative undertakings the scheme must establish with other service systems.

As well as redrafting the COAG Principles to reflect this critical strategic imperative for cross-sector collaboration, the NDIS requires the capacity for autonomous policy formulation. Captive to the policy imperatives of the jurisdictions as it is presently, the scheme is hampered in its ability to manage its own risks as they relate to both its planning processes and the potential failure of mainstream programs to deliver on their imperatives with the scheme.

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[5] Productivity Commission, *NDIS Costs, Position Paper,* Canberra, June 2017: 30.

[6] Op Cit: 2.

From the work the Alliance has undertaken with a range of services, the NDIS and program managers, the key flaw of the COAG Principles is the expectation that a visible line can be drawn between systems based solely on service definitions and traditional service offerings. Yet overlaps occur in service types provided by the NDIS and other service systems, including health, education, employment, transport and justice; and in provision models of the same service type in the jurisdictions such as therapy, case coordination and equipment. Given this and the individual circumstances of each NDIS participant, the idea that such a line can be drawn at all, is folly.

The COAG Principles were devised as a framework to support the NDIS implementation during trial. With their inadequacies now widely acknowledged, they must be redrafted to deliver a more fine-grained approach to working at the interfaces between programs and with the NDIS; and encourage partnered approaches to shared problems and solutions as the scheme rolls out.

We recommend that the COAG NDIS Principles be redrafted to add a third column to the current binary service split between the NDIS and other systems. This third column should detail areas of shared responsibility between the mainstream service systems and the NDIS.

**NDIS interface with Aged Care**

In its comments on the scheme's interface with the aged care sector, the Commission only addresses the issue of whether NDIS participants stay in the NDIS at age 65 or transition to the aged care system. While this is an important liability issue for the scheme, it is also vital that scheme participants retain the capacity to remain in the NDIS when they reach 65 years of age, if they so choose.

Australia's aged care system has developed to address the very different needs and circumstances of an ageing population. At this point, it lacks capacity to manage the very different needs that individuals ageing with profound disability will present with.

As example, the transition of YPINH to the NDIS has involved complex negotiation between the Australian Department of Health, the NDIS and the Department of Social Services that saw an 11 month delay in the phasing of this group to the scheme. Even though this phasing has commenced, many unresolved issues concerning planning, plan implementation, accreditation, compliance and consumer choice remain.

Precisely because it involves another service system so directly, the transition of YPINH demands a dedicated and collaborative transition strategy. Highly regulated, the aged care sector is differently organised to the disability sector. It not simply a collection of service providers delivering services that are indistinguishable from disability services.

Yet feedback the Alliance has received from aged care providers suggests that the NDIS is not taking a collaborative approach in its engagement with the sector. Instead, there seems to be an assumption that the aged care industry will simply understand

the NDIS imperatives and comply with planning, plan implementation and resident commissioning.

While this is clearly an issue for transition, there are also operational issues that will need to be settled at full scheme. These include, but are not limited to:

- The impact of the NDIS on aged care providers' standards compliance and accreditation.
- The ability for NDIS participants resident in aged care to engage third party providers in implementing their plan.
- NDIS provider management in the aged care sector.
- Potential amendment of the Aged Care and the NDIS Acts to resolve incompatibilities between the two schemes.
- The impact of the proposed NDIS Quality and Safeguards regime on aged care providers and the aged care accreditation scheme.

Until we have systemic capacity to offer an alternative to nursing home placement, residential aged care will remain an 'option on the spectrum' to offer housing and support to younger people with disability and complex health and other support needs.

NDIS planning must be comprehensive for participants living in aged care. It is not acceptable to simply 'top up' existing levels of aged care funding and services as was the case with the Younger People In Residential Aged Care Initiative (YPIRAC). The NDIS must partner with aged care providers to ensure that participants in their services receive comprehensive supports, including locating necessary health services where required.