

**Queensland Government Submission
to the Productivity Commission's draft
report:
*Disability Care and Support***

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1 Overview

The Queensland Government welcomes the Productivity Commission's (the Commission) Inquiry into a Long Term Care and Support Scheme and its draft report *Disability Care and Support* (draft report).

The proposals in the draft report provide an historic opportunity for consideration of better care and support for people with disability, their families and carers. Queensland is committed to working with the Australian and other state and territory governments, the disability community and other sectors, to find innovative ways of delivering sustainable disability care and support to people with a disability.

Similar to all other states and territories, the Queensland Government is a major funder of specialist disability services and has already committed to significant investment and reforms to improve the policy, program and operating environment for the disability sector, including the not-for-profit sector. Queensland acknowledges that much is yet to be done.

Queensland is supportive in principle of the policy intent of the Commission's draft proposals. However, there is not yet sufficient detail on the two schemes proposed in the draft report to fully identify the impacts for Queenslanders and to be sure that these represent the most appropriate way to proceed. In particular, it is noted that the figures on which the draft report relies have limitations and further work is needed to ensure these estimates are acceptable.

The report is optimistic about the proposed schemes. The Commission's final report should discuss the limitations of the schemes proposed and any potential downsides or risks. It should also discuss other possible options and their costs and benefits and make comparison with those of the preferred models.

Financing and cost estimations in the draft report are also noted to have a wide range between \$10.8 billion and \$14.2 billion. In particular, the gross figure of \$12.5 billion for the establishment of an NDIS is only the midway point between an estimated high and low.

As jurisdictions consider the Commission's draft report, major reform agendas are occurring or have been flagged in a number of associated or linked fields, including:

- renegotiation of the National Disability Agreement (Dec 2013)
- National Health Reforms (including reforms to disability, aged and community care)
- Aged Care also the subject of a Commission inquiry
- Henry Tax Review
- Review of GST Distribution

All these reforms point to significant changes in inter-governmental relations and the future role of the states and territories in service delivery. Hence, the full effects of the Commission's proposals need to be assessed in the context of these associated reforms.

The Queensland Government considers that any new scheme should clarify roles and responsibilities, and require the policy, funding and regulatory roles to be exercised by the Australian Government.

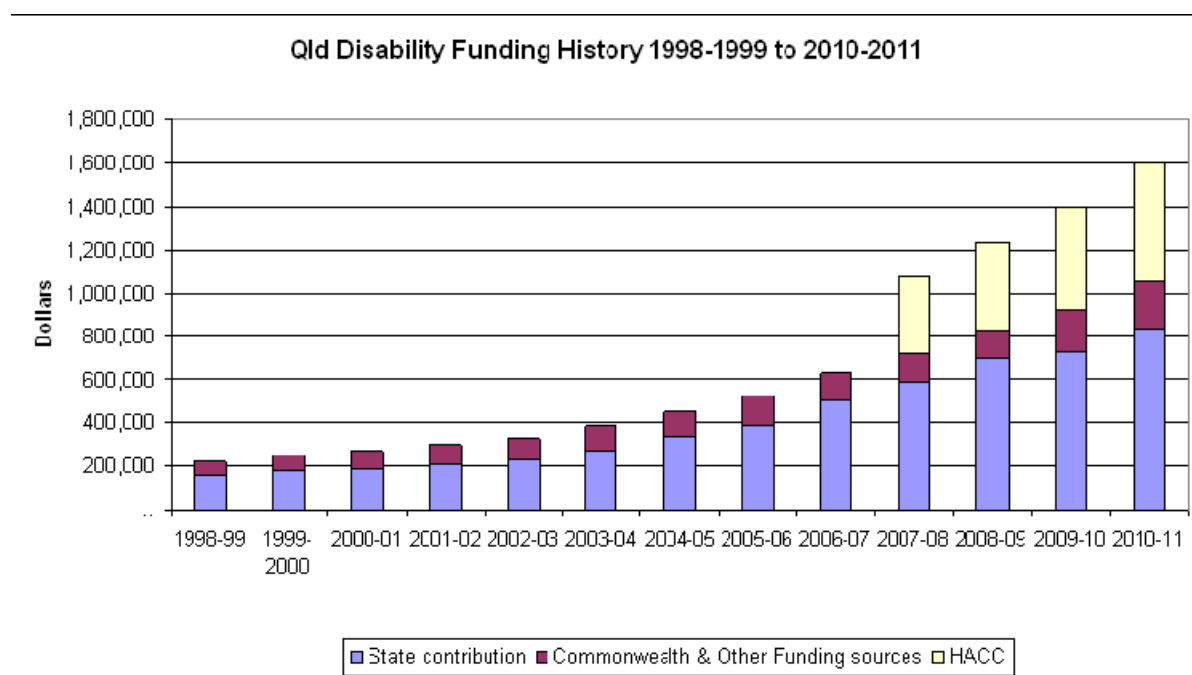
This submission provides some detail on Queensland's Growing Stronger initiative as its tools and processes align well with those proposed for an NDIS. It identifies factors which the Queensland Government considers are essential to any scheme to support people with significant disability and identifies matters which it considers require greater clarity in the final report.

Finally, the submission outlines mechanisms which the Queensland Government considers can help promote greater consistency in state-based compensatory arrangements and clarity in relation to injury coverage under the NIIS. It also indicates that the Queensland Government would appreciate further consideration of a national, rather than just a federated, model for an NIIS, and consideration of the two national models being merged earlier than canvassed.

2 The Queensland context

Between 1998-99 and 2010-11, the Queensland Government has committed significant additional investment (over 430 per cent) into disability services. However, the growth in the number of potential service users has outpaced the funding increase. Between 2003-04 and 2008-09 the number of service users in Queensland has increased by more than the national percentage change (46 percent compared to 37 percent)¹. The significant increase in Queensland Government funding for disability services is outlined in Figure 1 below.

Figure 1



In addition to the graph above, the following provides a few examples where people with disabilities have gained significant increases in funded support over the past few years:

- *Young people leaving school:* an increase of \$28.24 million between 2001-02 and 2010-11 has resulted in almost 3,000 young people being supported each year in 2010-11, up from 1067 since 2001-02.
- *People with spinal cord injuries:* an increase of \$9.5 million between 2005-06 and 2010-11 has resulted in over 100 people being supported annually, up from 10 people in 2005-06.
- *Families and individuals needing respite:* an increase of \$20 million between 2003-04 and 2010-11 has resulted in 107 more respite services being funded since 2003-04.

Queensland (\$38,141) has the second highest total expenditure per client for disability services after NSW (\$43,411)². Queensland has a relative low level of funding per person in the estimated potential population as a consequence of providing a higher level of support to those people with the highest level of need for assistance.

In 2009-10, the Queensland Government supported over 23,000 unique individuals through the disability service system; 14,000 Queenslanders in the non-clinical community mental health system; and 37,000 within HACC.

The Queensland Government has committed a record \$1.612 billion in 2010-11 to strengthen specialist disability services, community mental health and HACC services across

¹ Report on Government Services 2010, Chapter 14, Appendix table 14A.12

² Report on Government Services 2010, Chapter 14, Appendix table 14A.84

Queensland. This is an overall increase of \$213 million, or 15.2 per cent over 2009-10 funding.

All jurisdictions in Australia are experiencing increasing demand for specialist disability services. Social and economic factors pertinent to Queensland are summarised below³.

Projected population growth

The Queensland population is expected to increase at 2.0 percent per annum on average over the period 2011 to 2021. During the same period the Queensland population under the age of 65 years is expected to increase by 1.6 percent per annum.

ABS population projections for Queensland indicate that Queensland will have the largest percentage increase in population between 30 June 2007 and 2056, more than doubling the 2007 population of 4.2 million to 8.7 million people by 2056. Queensland is projected to replace Victoria as Australia's second most populous state in 2050⁴.

Age and life expectancy

There is a clearly established link between increasing age and the likelihood of acquiring a disability and the severity of that disability. Australia-wide, the proportion of people aged over 65 years of age is increasing, and this trend is also prevalent in Queensland. It is therefore likely that the disability services client base will also increase. Care and support needs which often increase with age will place further demand on the Queensland disability services sector.

The Disability Investment Group Final Report noted that over the next forty years (2009 – 2049) there will be a steady increase in the number of people with severe and profound disabilities from 1.4 million (6.7 percent) to 2.9 million (10.2 percent). Queensland already has a greater proportion of the population who have a severe or profound disability compared to the national average (4.8 percent versus national average of 3.9 percent)⁵.

Increase in the number of young people with a disability

The ABS 2006 Census of Population and Housing found that in Queensland, 13,600 males (2.0 percent) and 7800 females (1.2 percent) aged between 0 and 24 years had a profound or severe disability.

There is a general growth in the number of young people with a disability, including acquired disability. It is well documented that autism spectrum disorders are growing in prevalence.

Aboriginal and Torres Strait Islander peoples

The baseline performance report for the National Disability Agreement (NDA) highlights that a larger percentage of Queenslanders identify as Aboriginal or Torres Strait Islander compared to the national average (3.6 percent of the Queensland population compared to the national average of 2.6 percent).

The report also indicates that Aboriginal and Torres Strait Islander service users are more likely to have multiple disabilities and to have a higher number of disability groups on average than non-Indigenous service users⁶. In Queensland, 6.8 percent of funded clients identify as being Aboriginal, Torres Strait Islander or both indicating there is a greater need for culturally appropriate services and services in remote communities.

Reduction in informal care

There is a general trend towards reduction in the supply of informal care arrangements, attributed to the ageing population and ageing carers, changes in family and social structures and population mobility.

³ *Investment Strategy for the Queensland Disability Services Sector: Final Report*, October 2010, PriceWaterHouseCoopers, unpublished

⁴ 3222.0 – *Population Projections, Australia, 2006 to 2101*, 2008, Australian Bureau of Statistics

⁵ *National Disability Agreement: Baseline performance report for 2008-09, 2010*, COAG Reform Council

⁶ www.aihw.gov.au - users of CSTDA funded services

Data from the NDA baseline performance report indicates that a larger proportion of Queenslanders are primary carers compared to the national average (3.0 percent versus national average of 2.4 percent). As the population ages, and people are unable to fulfil the informal caring roles, this will exacerbate future demand for provision of more formalised care.

Demand-supply tensions

Demand-supply tensions exist for disability support, including existing levels of unmet demand. Data from the NDA baseline performance report indicates that only 20 percent of the potential national population of people with profound and severe disabilities are currently accessing disability support services delivered by the states and territories.

Based on estimated from the Survey, Disability Ageing and Carers (SDAC) 2003, there are nearly identical levels of unmet need in all of the large jurisdictions (Queensland, Western Australia, New South Wales, Victoria and South Australia) at around 7 percent of the potential population (for people with a profound or severe disability aged 0-64 years). The SDAC is one of the primary data sources used as the basis for deriving population estimates of disability in the draft report.

3 Growing Stronger – the Queensland response

The Queensland Government has approved a four year strategy (2007-2011) for comprehensive reform to improve Queensland's specialist disability service system in order to maximise the utility of limited resources.

The Growing Stronger program of reform responds to concerns raised about the disability service system by the community and the disability sector, namely:

- the disability service system is difficult to access
- assessment and prioritisation processes for services are not uniform or transparent
- programs and services are not flexible enough.

Growing Stronger reforms, with a phased implementation commencing in 2010 and through to 31 July 2011, deliver:

- *A screening, intake and assessment process* that enables Disability and Community Care Services (DCCS) to determine in as short a time as possible, eligibility, need and priority. This occurs via a phased intake/assessment process which is supported by ICT software utilising the CURAM platform.
- *A focus on embedding a referral process throughout the system* which enables staff to link people to mainstream and informal services and supports, where appropriate.
- *A prioritisation process* that uses explicit criteria, transparent practice and ensures fair decision making about access to government funded specialist disability services consistently across the state.
- *A process for appeals and complaints about decisions* made during the eligibility, needs assessment and prioritisation processes which is independent of the assessment and service delivery areas of the department.
- *An early intervention framework* that aims to improve a person's long term outcomes and reduce reliance on high cost services in the future by providing targeted specialist disability services at key times in a person's life.
- *A publicly available service catalogue that will simplify the organisation of services by unbundling the 27 existing programs and services.*
- *A service matching and offer process* that matches prioritised service needs with currently available specialist disability services.
- *An improved focus on client outcomes* through the use of an integrated support plan that defines goals, facilitates coordination of multiple providers, nominates clear points of review and focuses on the changes in a client's needs.
- *A clearer view of regional service availability and capacity* will be possible through the introduction of a service inventory, which will provide information about what specialist disability services DCCS and funded non-government organisations are delivering, to whom and if there are vacancies in the system.
- *An improved picture of demand for services* will be gained through improved data capture, giving DCCS greater ability to plan for future service provision and strategically build sector capacity.
- *Improved access to information about mainstream service providers* including services offered across government and the private sector, enabling DCCS to refer people to mainstream services where appropriate.
- *Improved workforce capacity and capability* will be gained through training and professional support of staff providing intake and needs assessment, prioritisation and management of individual planning and review processes.

- *Information and Communication Technology enhancements* to support the core business activities of intake, assessment, prioritisation, service matching and offer and service provider management. This infrastructure will also provide people with a disability, their families and carers with access to information about specialist disability services.

Growing Stronger assessment framework

The Commission's recommended assessment framework is largely consistent with the approaches already introduced in Queensland through Growing Stronger. Growing Stronger employs a person-centred, strengths-based approach and uses standardised, formal assessment tools to identify the best types of services or supports.

DCCS worked with an independent consortium of disability experts and Assessments Australia to develop a standardised, fairer and more transparent approach for assessing Queenslanders with a disability. Over a six-month period, the consortium researched and developed the tools and processes that now make up the new framework.

Consortium representatives consulted with key stakeholders, including service providers and DCCS staff, conducted extensive literature reviews and examined assessment and prioritisation approaches used in Australia and around the world. The recommended assessment tools were then further evaluated by the Growing Stronger team, before being extensively tested. This was to ensure the tools delivered the anticipated benefits for all our clients.

The Growing Stronger assessment process includes the following:

- Inventory for Client and Agency Planning (ICAP) functional needs assessment – used to assess the status, adaptive functioning and support needs of clients across the domains of motor skills, social and communication skills, personal and living skills and community living skills, as well as a maladaptive index and a service score to provide an indication of client care
- Understanding the Carer Role (UCR) – used to understand the needs of the primary carer if they are present and it is appropriate. This ranges from the impact on finances through to the impact on free time
- The risk assessment – explores the risk domains accommodation, physical health, emotional status, behaviour and financial status.

These assessment tools and processes have been enabled through 'smart' technologies using the Curam software platform.

Since the Growing Stronger assessment tools were implemented in May 2010, their reliability in accurately capturing a person's needs has been consistently demonstrated.

Further, an evaluation of the Growing Stronger assessment methodology completed in February 2011 shows strong evidence for the effectiveness of the needs assessment and prioritisation methodologies and tools being implemented in the Growing Stronger program. The near-normal distribution of stability rankings indicates an authentic identification of need is being achieved through the new system. The evaluation also demonstrated:

- A close alignment between the theory-grounded assessment tools and assessors' professional judgments.
- The depth of assessor comprehension of the methodologies underpinning assessment tools.
- The effectiveness of assessor training delivered through the Growing Stronger program.
- The effectiveness of the assessment tools independent of professional judgements, which increases the transparency and equity of our prioritisation decisions.
- The importance of maintaining a clear separation of duties and roles between assessment of demand (needs assessment and prioritisation) and that of supply (Support Linking). Should this ever cease to occur, the integrity and success of the current needs assessment and prioritisation system would be compromised substantially, resulting in a subjective, indefensible and unreliable system of assessment and prioritisation.

The Queensland Government would be pleased to further discuss and present evidence to the Commission of the benefits of the Growing Stronger model, processes and tools.

Service and supports

The Commission's draft report proposes that assessment would lead to a package of supports for people with a disability. In Queensland, Growing Stronger:

- Utilises Support Linkers to work with clients to:
 - utilise and strengthen informal and mainstream supports that currently or could provide a level of service to meet a persons need
 - choose service providers with available inventory capacity to provide selected service/s according to the person's assessed and prioritised need, if funding is available
 - choose a location (state-wide) where the person wishes to receive a service
 - choose the available funding type
 - work with a service broker to select and manage selected services.
- From 1 July 2011 - will operationalise several funding types including:
 - *Pre-purchased DCCS Managed* – provides the majority of DCCS funded and provided services
 - *Fee For Service Self Managed* – by an individual corporation
 - *Fee For Service Self Directed* – by individuals
 - *Fee For Service Flexi* - funding for one-off minor capital items
 - *Fee For Service Investment Funding* - for major capital items.
- Clients who choose Self Directed Funding will work with funded non-government service provider brokers or case coordinators to assist the planning and purchase of selected services, according to the person's assessed need. Unused capacity will be rolled over or offset against the next quarter's budget.

Queensland is trialling self-directed funding via a pilot which is being run for two years (2010–2011). Individuals are able to plan their support and lifestyle needs by controlling how their allocated funding is spent.

Queensland's new approach largely aligns with the proposed NDIS.

4 National Disability Insurance Scheme

A Issues key for support of an NDIS

There are a number of issues which are key to deciding whether an NDIS could be supported by Queensland Government. Clarity is required in relation to who would receive services under an NDIS; how many people this would be; what services they would receive; how much this would cost; and how this cost would be met.

Clarity of purpose of an NDIS

Queensland notes that the draft report articulates a number of goals for an NDIS throughout the draft report, including:

- to properly fund the reasonable assessed needs of people with a disability
- better economic, employment and independence outcomes for people with a disability
- to assist people with disability to access suitable and secure housing
- to provide surety of services
- to better support Indigenous Australians with a disability
- to relieve the excessive stress currently placed on informal carers.

Queensland is supportive of these policy intents. A clearer articulation about the purpose of an NDIS and an NDIA would be helpful.

Stakeholders in Queensland report that some people are concerned about any change because of fear that they may lose the level of support they currently have – a “better the devil you know than the devil you don’t know” scenario. Key principles which underpin the purpose may allay such concerns.

In finalising the draft report, the Commission should more clearly and explicitly state:

- the goals of an NDIS
- what it would mean for people with a disability already in receipt of services: this may mean including a set of principles which an NDIS should incorporate, particularly for the transition phase.

Eligibility for services under an NDIS

Queensland notes the proposed three-tier NDIS system, namely:

- Tier 1 – social participation and minimising the impact of disability.
- Tier 2 – information, referral and web services, so people can get clear information about support groups and assistance available.
- Tier 3 – people receiving funding support from an NDIS.

Many features of the proposed system are consistent with disability service provision in Queensland, including: providing a single point of entry and assessment; referrals to mainstream services and informal supports in the first instance; and the provision of a package of support to people with a disability who require it.

It is possible that the ‘social participation’ component of Tier 1 overlaps with the role of the National Disability Strategy (NDS). It is likely that the NDS may have to be reviewed if an NDIS is adopted, particularly with the change of responsibilities which would follow for the state and territory governments. It is also unclear how a large federal agency such as NDIA would be best placed to undertake what is grassroots and community level work.

To be eligible for specialist disability services in Queensland under the state *Disability Services Act 2006*, a person must be a resident of Queensland under 65 years of age and meet all of the following criteria:

- The person must be:
 - an Australian citizen, or
 - a holder of a visa that gives permanent residency rights, or
 - a New Zealand citizen who arrived in Australia prior to 26 February 2001.
- The person must have a disability that is:
 - attributable to an intellectual, psychiatric, cognitive (including both congenital and acquired impairments), neurological, sensory or physical impairment or a combination of impairments, and
 - permanent or likely to be permanent (and may or may not be of a chronic episodic nature).
- The disability must result in the person:
 - having substantial reduction in one or more of the following areas: communication; social interaction; learning; mobility; or self care/management, and
 - being in need of ongoing specialist disability support.

There is a concern that two particular client groups currently supported in Queensland may no longer be eligible for support under an NDIS:

- People under 65 years of age who are currently receiving Home and Community Care (HACC) services. Overall, HACC typically provides low intensity or low level supports of around 2-4 hours per week to support frail aged and people with disabilities (irrespective of age) to remain at home. Some clients receive even lower intensity supports equating to 1-2 hours per fortnight or month of domestic or health care. However, it is noted those under 65 years of age generally use more service hours and more costly services.
- People with a psychiatric disability, which is referred to in Queensland's eligibility criteria, but not in the proposed NDIS criteria. When considering the scope of an NDIS, the Commission should take into account the various state and territory governments' existing approaches to this.

It is acknowledged however that the Commission is seeking further advice in relation to where the boundaries between the mental health sector and an NDIS might lie.

Eligibility of New Zealanders living in Australia for disability services currently varies across jurisdictions: they are likely to be considered eligible in Victoria, New South Wales and South Australia; and ineligible in Tasmania and Western Australia and Queensland. It is noted that under bilateral arrangements, New Zealand citizens are afforded access to particular social security and other benefits under the Special Category Visa which entitles them to live and work in Australia indefinitely.

The draft report does not specifically refer to New Zealanders but states that entitlement will be restricted to 'permanent Australian residents', and at other points 'Australian residents'.

The draft report also does not consider the needs of children and young people with a disability in any detail and it remains unclear what support an NDIS might provide to this group.

In finalising the draft report, the Commission should clarify eligibility in relation to:

- people under or over 65 years of age currently assisted from HACC services
- people with a psychiatric condition which has significant disabling impacts, given that states and territories have various approaches currently
- children and young people under the age of 18 years
- New Zealanders with a disability on temporary or unprotected visas.

Number of people covered for Tier 3 NDIS support

A primary concern with the draft report is the Commission's methodology for calculation of the specialist disability potential population who would be eligible for funded support. When comparing the *Report on Government Services 2011* and the draft report with respect to persons with a significant (severe or profound) disability, there is a noticeable difference in the calculation (747,000 versus 360,000). The main differentiating factor appears to be the application of a 'fixed adjustment rate' (0.53) in the Commission's draft report, which essentially acts to halve any estimate. There is no explanation for this adjustment rate in the draft report.

Using its chosen methodology, the draft report estimates that approximately 360,000 people across Australia would be eligible for Tier 3 support. Using the same methodology, Queensland estimates that in Queensland, just over 80,000 persons aged 0-64 years with a permanent disability would meet at least one of the conditions for individualised funded support under an NDIS as follows:

- 50,378 people with significant core activity limitations (self-care, mobility or communication)
- 11,195 people with an intellectual disability not already included in the above category
- 17,912 people in one of two early intervention groups
- 1120 people in the 'other category' who would have large identifiable benefits from support that would otherwise not be realised.

However, it should be noted that this could be a significant underestimate or overestimate, when a relative standard error of 10 per cent is taken into account (i.e. giving a figure of **between 60,000 – 100,000 persons** eligible for support).

There are also concerns over the number of HACC clients who would receive services under an NDIS model (given the large number of clients who receive low level/intensity supports). Queensland estimates that approximately 20,000 HACC clients with unmet need would fit the criteria for NDIS support. Further analysis is required of the large cohort of HACC clients aged 0-64 years in Queensland to understand the needs of this group and how these needs would be met under an NDIS.

In finalising the draft report, the Commission should clarify:

- the methodology used to estimate the number of people who would be eligible for Tier 3 support under an NDIS and provide any options for such calculation
- the number of expected service users who are expected to receive individually tailored, funded supports on a jurisdictional basis.

Services provided under an NDIS

The Commission's proposal that an NDIS fund a broad range of individually tailored supports, including the current range of disability supports, seems appropriate. Basing the services that can be delivered on existing services provided under the National Disability Agreement is a good starting point.

Further, the exclusion of support needs which are more appropriately met by the health, palliative care or aged care systems, or through mainstream service systems (such as employment, public housing or education) is supported. Failure to exclude these services would likely result in duplicated services which are more expensively provided as 'specialist disability services', in addition to reducing incentives for mainstream service providers to keep their services accessible to people with a disability.

However, there needs to be clarity about service coverage. States and territories may include different service types in their mainstream service delivery. It would be important that, if an NDIS covers a disability service currently delivered through a mainstream agency that the service should be funded irrespective of the service delivery method.

In Queensland, a number of the in-scope services are currently provided by government through departments other than that responsible for disability services, for example Queensland Health (e.g. Medical Aids Subsidy Scheme - MASS), Department of Transport and Main Roads (e.g. Taxi Subsidy Scheme), the Department of Education and Training (e.g. therapy for children and young people in schools), and broader Department of Communities service areas (e.g. minor home modifications for people in privately rented or owned housing under Home Assist Secure, home modifications for tenants in Government managed housing under Housing and Homelessness Services, and therapy services for children and young people through Child Safety Services).

In Queensland and other jurisdictions, strong liaison would be required during the transition to an NDIS with those departments and service areas which already provide a number of in-scope services. Further, it must be made clear whether existing programs would be subsumed under an NDIS or alternately ensuring the proposed NDIS can work with existing programs in a seamless way.

Currently, the Queensland Government does not prevent people from accessing therapies outside the specialist disability service system, but these are only paid for by government where an assessment clearly demonstrates that a person will benefit from the provision of such a service.

A person's or family's capacity to pay for support is not considered when determining access to specialist disability services in Queensland. A risk of imposing income or asset tests would potentially be a disincentive for people with disability, their families and carers to access paid employment. The Queensland Government would appreciate greater clarity on the exact circumstances in which a person would be required to pay an upfront contribution.

Queensland notes that the draft report recommends that people would receive "reasonable and necessary" supports and services under an NDIS. However, there is no definition of "reasonable and necessary" in the report with respect to assessed need or the level of supports which are allocated.

Queensland currently provides services to the eligible cohort at a lower rate than other jurisdictions, but provides services at a higher cost – reflecting that Queensland has focussed on the more complex cases for support. The Queensland Government is of the view that during the transition to an NDIS, the quantum of support provided to individuals should not be less than what is currently provided to individuals under state-based disability service systems.

In finalising the draft report, the Commission should clarify:

- when an upfront contribution to an NDIS would be expected
- how 'reasonable and necessary' supports will be practically defined and determined
- that during the transition to, and following implementation of, an NDIS a Queenslanders with a disability would not experience a loss in the level, type or number of supports.

The cost of an NDIS

Queensland notes that the draft report estimates that \$12.5 billion is required to fund an NDIS, with \$6.2 billion currently provided by Australian and state and territory governments; and an additional \$6.3 billion.

The cost estimated by the Commission may underestimate the actual cost of delivering the proposed reforms. That is, while the report consistently refers to \$12.5 billion, it also notes that this is the mid-point (\$10.8 - \$14.2 billion) of an estimated gross to "meet people's reasonable needs" for 2009-10. \$12.5 billion cannot, therefore, be regarded as a definitive figure. Additionally, the Commission's analysis is based on 2008-09 data and thus does not incorporate recent significant pay increases to Queensland non-government organisation employees.

In finalising the draft report, the Commission should clarify whether it can improve the accuracy of the estimates and analysis or suggest further data collection and analysis that would assist in the consideration of an NDIS.

Financing an NDIS

Appropriate financing of an NDIS is critical in not only determining its long-term viability, but also for Queensland to be able to assess whether it can endorse the proposed model. The Queensland Government considers that, in the development of an NDIS, the method of financing can adequately address: unmet and under-met need for care and support; the anticipated decrease in availability of informal carers over time; and the significant projected increase in the number of people with severe or profound disabilities in the future.

The form of financing must be equitable and publicly acceptable and provide for a significant quantum of funding which is sufficient to meet the life-time disability care and support needs for eligible claimants. It is desirable that the form of financing have low administrative costs and a high degree of public accountability. Further, provisions should be made to allow for large scale public and private investments in the disability market to address critical undersupply, where necessary.

Queensland notes that given the breadth of an NDIS, the states and territories do not have appropriate revenue powers to finance a broader long term scheme (unlike mechanisms which are potentially available to deal with catastrophic injuries arising from motor vehicle accidents through compulsory third party insurance arrangements). That is, the states and territories constitutionally have a very narrow taxation revenue base largely comprising: Payroll Tax; stamp duties (primarily on transfers of property but also on vehicle registration and insurance policies); gambling taxes; Land Tax; and Motor Vehicle registration.

Queensland notes that the draft report recommends that the Australian Government direct payments from consolidated revenue into an NDIS Premium Fund, and it is preferred the states and territories offset this by either:

- reducing their taxes by an amount which equates to the revenue they used to provide disability services; or
- transferring that revenue to the Australian Government.

While accepting that existing states and territories funding for disability services that would come within the scope of an NDIS should form part of a NDIS funding mechanism, further detailed consideration would need to be given to the range of potential funding adjustment options.

The Queensland Government would be concerned with the broader implications of the Commission's preferred tax swap option which would reduce the states already limited revenue flexibility and exacerbate vertical fiscal imbalance.

The consideration of funding adjustments involving state taxation would need to be considered in the broader context of tax reform and the Henry Tax Review and opportunities to improve the revenue base of the states.

Alternative funding adjustment options would need to be more fully considered. In particular, the restructuring of the level and number of Commonwealth specific purpose payments could provide both a viable funding adjustment mechanism and an opportunity to reform Commonwealth State financial relations. In particular, opportunities could be pursued to better clarify and delineate Commonwealth and state responsibilities to improve accountability and create clearer lines of responsibility between policy, funding and service delivery outcomes. In this context an adjustment mechanism could involve a responsibility swap whereby the states could take on an increased responsibility for a policy area with a commensurate reduction or withdrawal from that policy area by the Australian Government. Consideration of fiscal adjustment mechanisms also need to be viewed against the backdrop of the current review of the distribution of GST revenue.

An important consideration for the Queensland Government is that the state should not be worse off fiscally through the funding of an NDIS. States and territories have made a range of policy decisions around revenue and tax settings on the one hand and the provision of infrastructure and services to the community on the other hand. Against this background, the funding of an NDIS should not adversely impact on the fiscal capacity of the Queensland Government to continue to meet the broader service and infrastructure needs of a growing state or require the state to increase taxes or undertake other revenue measures in order to fund on NDIS. In this context the funding of an NDIS should be based on current state funding contributions and not based on concepts linked to an average national funding contribution.

It is further noted the Commission proposes that when a participant in the scheme reaches 65 years of age, they would be required to make co-contributions to ensure consistency with aged care arrangements post-health reform. This would be a departure from existing arrangements for specialist disability support and impact on the cost of living for these individuals. The Commission could give further consideration to the merits and opportunities for co-payments for people under 65 years of age wishing to access specialised disability supports.

In finalising the draft report, the Commission should:

- clarify whether proposed financing methods for an NDIS can adequately adjust for significantly larger numbers of eligible persons than expected
- estimate the possible 'off-sets' for other mainstream service systems (e.g. health and justice) arising from the needs of people with disability being better supported.

Governance and administration

While the Commission's draft report emphasises that an NDIS would not represent an Australian Government takeover of disability services, the combined effect of establishing a Commonwealth Statutory Agency, and the delivery of services through an individualised support model would mean that the state and territory's role in the provision of specialist disability services would be significantly reduced. It is understood that the role of states and territories would be limited to:

- another service provider in the market place
- a default service provider in instances of market failure (safety net)
- referral of people with a disability to an NDIS
- nominating a member to the NDIA, which oversees the administration of an NDIS.

The Queensland Government considers that any new scheme should clarify roles and responsibilities, and require the policy, funding and regulatory roles to be exercised by the Australian Government.

Queensland and other state and territory jurisdictions would need strong representation on a transitional governance group and the NDIA board to ensure the roles and responsibilities determined for each level of government under an NDIS are appropriate. For example, if the regulation of service provision and quality assurance mechanisms were no longer the responsibility of the states and territories, Queensland would expect that any national system maintained appropriate safeguards that were previously afforded by the *Disability Services Act 2006*.

Queensland notes that the draft report gives some consideration to an alternative governance approach, whereby an NDIS operates as a federated system and the states and territories retain policy control over the operation of the scheme. This approach could be explored by the Commission in further detail.

Further consideration is required to the risk of discontinuity given the expertise, responsiveness and innovation that occurs at the state and territory level.

Advisory council

Queensland notes that an advisory council would be established under an NDIS to provide advice to the board of the NDIA in regards to its activities and effectiveness in meeting its objectives. It is further noted that the advisory council would put forward the perspectives of various stakeholders such as people with disabilities, carers, suppliers of equipment and services and state and territory service providers and administrators.

The Queensland Government recognises that while the board must run the NDIA as a business, having people with disabilities and carers represented on the board would send an important message, and overcome likely dissatisfaction from various stakeholders of their 'advisory only' status.

Further consideration is also required as to how the NDIA would engage consumers, families and carers, and other stakeholders, at state, regional and local levels.

Administration

There is no information in the draft report about the projected costs for the administration of an NDIS or NDIA. It is also noted that the Australian Government is in the process of establishing offices around the country that will incorporate Medicare, Centrelink, the Child Support Agency and disability service organisation CRS Australia under the one roof, creating "one-stop" shops.

In announcing the reforms at the time, Human Services Minister, the Honourable Chris Bowen MP, said the changes would improve service delivery and reduce bureaucratic processes and duplication. The Commission could give consideration to the use of this infrastructure in any future delivery of an NDIS.

In finalising the draft report, the Commission should:

- consider how the risk of discontinuity, given policy and especially operational expertise exists largely at state and territory levels, should be mitigated
- consider whether there is a role for people with disabilities and carers being represented on the board of the NDIA
- consider what engagement mechanisms would be appropriate at state, regional and local levels
- detail the advantages and disadvantages (including cost differences and impact on clients) of centralised versus state-managed administration to the operation of an NDIS
- the expected cost of administering an NDIS and whether this could be ameliorated by the utilisation of pre-existing government infrastructure.

B. Matters which will need to be considered if a national scheme was put in place

At the recent Community and Disability Services Ministers' Conference (CDSMC) meeting, the Commission representatives expressed the view that the detail of implementation was not an issue which it needed to consider. However, without the Commission's consideration of implementation and transition issues, there is a risk that the implementation timeline is overly optimistic.

Consumer choice

The Commission claims that an NDIS model of disability service provision is likely to introduce competitive pressures – lower prices, the entry of new suppliers, quality service and creation of new products to meet needs which should be to the benefit of those using the services.

As Queensland is a particularly decentralised state, however, there would need to be contingencies to mitigate market failure which could be to the detriment of consumers that is:

- in rural and remote areas of the state – particularly for Aboriginal and Torres Strait Islander people
- for other particular needs groups e.g. forensic disability clients; people with complex and high support needs including those with challenging behaviours.

It also cannot be assumed that all people with a disability will be readily able to move to purchaser rather than recipient status. The level of preparation - information, education and support - of both people with a disability and their carers and families should not be underestimated.

In finalising the draft report, the Commission should clarify the level of risk of market failure and the extent to which state and territory governments may be required to manage this.

Service provision

There will clearly be a tension between the potential benefits of a consumer driven market and the sustainability of service providers, particularly the existing not-for-profit sector which has traditionally been block-funded. Supporting service providers through capacity building and business support in any transition phase would be essential. It is likely that more for-profit providers will emerge in the marketplace which has historically been dominated by not-for-profit providers. There is no modelling by the Commission in the draft report of what the service delivery mix could potentially look like. It also does not discuss the future potential need to regulate some aspects of service delivery and the implications of this. For example, finance brokers could be considered a comparable industry to brokers managing people's disability packages. There has been a need to regulate the former.

It is likely that state and territory governments would simply be another service provider in a competitively neutral environment, but may have greater role to play in areas where market failure occurs – such as in rural and remote communities. This is particularly true for Queensland, which has an above average percentage of the population (including Aboriginal and Torres Strait Islander people) with a disability living in rural and remote areas (3.2 percent versus the national average of 2.3 percent).

If state and territory governments become 'safety-net' service providers (e.g. in rural and remote communities or in providing high cost services to extremely complex/statutory clients), this will likely result in high cost per client ratios. The Queensland Government would expect to be in a position to negotiate full cost of service delivery with the NDIA, rather than be funded based on 'efficient' pricing in these circumstances.

State and territory governments' have local knowledge of services and supports and skills in linking clients with services and supports. In the transition to the model proposed by the Productivity Commission, there is a risk that this will be lost. This may have implications for the long-term cost and viability of the scheme.

In finalising the draft report, the Commission should clarify that governments will not be subject to efficient pricing in cases where it is providing services as a result of market failure.

Workforce issues

Queensland notes that the draft report highlights the wide and diverse range of workers employed in the disability workforce and the predicted severe shortages in the disability sector workforce in the future. It raises a range of issues concerning the increased demand for a disability workforce which would be required from an NDIS in an area where the workforce largely consists of non-professional, older women who are on low incomes with little training. Full-time employment is low, with a comparatively high turnover of workers compared to other workforces.

The community services sector is a significant contributor to the Queensland economy through its substantial provision of jobs, the economic and social value of work performed by volunteers, as well as its substantial contribution to the state's social infrastructure and

community well-being. Investing in a skilled workforce will help ensure that quality service activities are delivered to best meet the needs of vulnerable Queenslanders.

The Queensland government is a significant employer of disability service delivery staff. If the service mix changes as anticipated under an NDIS, it would be important that the skills and experience of staff from state and territory disability departments would be retained during the transition to, and implementation of, an NDIS.

Workforce issues will be complex and will need to be well-managed at the transition stage but also into the future if the outcomes of an NDIS are not to be undermined.

In finalising the draft report, the Commission should clarify:

- how the rapid expansion of the skilled and unskilled workforce during transition and implementation of, an NDIS can be managed in the timeframes it has set out
- what opportunities might present for people with a disability for employment
- how the skills and experience of staff from state and territory disability departments/ organisations would be retained during the transition to, and implementation of, an NDIS in light of the new roles and responsibilities of Australian, state and territory governments under an NDIS.

Safeguards

The health, safety and wellbeing of consumers are of paramount importance. The Queensland Government is committed to ensuring maximum protection from abuse and neglect through a number of legislative, policy and service reforms.

The *Disability Services Act 2006* provides a base to protect people with a disability from abuse, neglect and exploitation. Queensland has established client safeguards within the *Disability Services Act 2006*.

Additionally, in Queensland there is legislation to support community visitors, the Adult Guardian and the Public Advocate. Queensland believes that these elements outlined above would be key considerations in any transition to an NDIS and should form a baseline of relevant safeguards.

It is noted that the draft report also considers the use of restrictive practices in relation to people with a disability. In Queensland, the Positive Futures reforms, being implemented as a result of the report by Justice William Carter QC, *Challenging Behaviours and Disability - A Targeted Response* (the Carter Report), are providing real benefits to those adults with an intellectual or cognitive disability whose behaviour may pose a threat to their own safety and that of those around them and who are subject to restrictive practices.

The Queensland Government would require assurance about the safeguards that will be in place under a proposed NDIS. At a minimum, it would expect to see no diminution of safeguards in comparison to what its clients have in place now.

Further, consumer and systemic advocacy services are likely to have an even more important role in a consumer and market-driven system. The draft report also does not significantly discuss how an NDIS would support consumer advocacy, and it appears that advocacy functions would largely fall upon Disability Support Organisations (DSOs) or service providers who are directly engaged by the person with a disability. Consideration could also be given to the role of a national Disability Ombudsman.

In finalising the draft report, the Commission should give further consideration, in an integrated way, to the regulatory requirements and mechanisms to safeguard against abuse and exploitation, including standards and statutory and consumer advocacy arrangements.

The intersect with mainstream services

Whether a person should have their needs met within the disability, health or mental health systems can be a complex issue. Considerable work is required to establish clear boundaries

between these systems. This work is vital to avoid people being caught in gaps between these systems.

There may be a number of situations in which it would be appropriate for an NDIS to partially cover some support services (specialist disability), but there may be a need for additional specialist services through health, palliative care and/or aged care services/systems to meet the needs of the individual. It would be important for an NDIS to work closely with Local Hospitals Networks and Medicare Locals to ensure care for individual clients is coordinated.

Queensland notes the Commission considers there are strong grounds under a NDIS for 'cashing out' the value of public housing – and specialised disability accommodation where an NDIS has assessed people as needing this type of accommodation – to give people greater choice in location and type of accommodation, and who they live with. It is further noted the Commission proposes payments would be based on expected market rents, and people could add their own finances to a housing decision.

In Queensland, people with a disability comprise 47 percent of tenancies in government-managed housing⁷. In the 12 months to 28 February 2011, nearly 60 percent of tenancies allocated to Government-managed social rental housing were to households where at least one person had a disability.

Potentially, cashing out housing subsidies, if fully funded, could increase the availability of social housing. However further consideration of the complexities around cashing out is needed, including how it would be funded, how entitlements would be determined, and the differences between an expected market rent model and the current social housing income-based concession or rebate amount.

Given the viability and funding challenges facing the ongoing provision of social housing assistance across Australia, any cashing out scheme would need to be very carefully considered within the broader housing reform agenda and framework under which the Australian Government provides funding for housing support to states and territories.

In finalising the draft report, the Commission should give further consideration to:

- the intersection of an NDIS with other mainstream service systems
- potential impact of an NDIS on the social housing system, particularly in regard to transfer of responsibility for home modifications and the 'cashing out' of public housing and specialist disability accommodation for people with a disability.

Assessment

Queensland notes that the draft report highlights that there is no ideal tool to use for all circumstances in an NDIS, but that the best available tools would be initially used and further developed over time.

It is critical that any tools adopted for an NDIS are rigorous, valid (testing what they are supposed to test), reliable (show consistency in results) and are cost effective. As identified by the Commission, tools must include an assessment of the capacity of informal carers to meet the support needs of a person with a disability.

The draft report states that there is little consensus on the use of the most appropriate tools to assess suitable disability care and support needs. The Queensland Government suggests that the tools developed under Growing Stronger be strongly considered and refers the Commission to Section 3 of this submission.

Carers and family members

The role of carers is critical to a sustainable long term care and support scheme. This aspect must be prominent in the design of an NDIS.

⁷ As at 28 February 2011

Queensland notes the draft report highlights the low level of carer wellbeing associated with low levels of income, educational attainment, employment and superannuation and that a major goal of an NDIS would be to relieve excessive stress on informal carers. Queensland agrees that this could be done through various mechanisms, including: appropriate funding to minimise the withdrawal of informal care; assessment processes which consider what could “reasonably and willingly” be provided by unpaid family carers; and the promotion of counselling and training for carers.

Data from the NDA baseline performance report indicates Queensland has a greater proportion of the population who are primary carers compared to the national average (3.0 percent versus national average of 2.4 percent). A transfer of the roles and responsibilities of caring from informal to formal care would further exacerbate demand for formalised care.

The Queensland Government notes that the draft report is premised on continued support to people with a disability from their informal carers. However, the implementation of an NDIS may result in greater demand for formal full-time care. The draft report’s assumptions may be an underestimation of the costs associated with an NDIS.

In finalising its report, the Commission should:

- consider the needs and interests of informal carers separately, not as a component of the Workforce chapter
- examine further the assumptions regarding informal carers in relation to the costings of the scheme.

Collection and use of data

The Queensland Government recognises that the effective, long-term operation of any national scheme requires extensive and robust data systems. Data systems that are developed need to promote efficient service provision, inform decision-making and enable effective performance monitoring of service providers, both government and non-government. Further, the capture of longitudinal unit data would allow for investigation of the use of disability supports and services, associated costs and the outcomes for people with a disability over their lifetime.

The draft report recommends the Australian Government fund and develop a national system for a shared electronic record of the relevant details of NDIA clients. The factors which would need to be considered include: the cost of development; integration of systems, including systems used by the non-government disability sector; data conversion from other systems; and security/privacy of information.

These could be considered as part of the National Minimum Data Set (NMDS) redevelopment. Given the significant development of the Business Information System in Queensland, which collects information on the delivery of disability services as well as information directly from disability support organisations and providers, Queensland would be well placed to be a trial jurisdiction for the development of any new, national system.

In finalising the draft report, the Commission should further consider potential systems and costs for effective and efficient collection and reporting of data.

Aboriginal and Torres Strait Islander peoples

The draft report identifies a number of challenges facing Aboriginal and Torres Strait Islander people with disability with respect to accessing services but there is a limited sense of how and NDIS and NDIA would respond to these challenges. This could be well informed by the Commission’s extensive knowledge of Indigenous issues as a result of its biannual development of the Overcoming Indigenous Disadvantage reports.

There is an expectation that an NDIS would adopt measures which have proven to be successful at the state and territory level in enhancing the provision of disability care and support to Aboriginal and Torres Strait Islander people with a disability.

5 National Injury Insurance Scheme

The intersection between an NDIS and state-based compensation (insurance) schemes warrants particular attention given the variation in compensatory support which is provided in Australian jurisdictions.

In the development of an NDIS and an NIIS, it is critical that efforts be made to: achieve greater jurisdictional consistency in state-based schemes; ensure an equitable level of care and support is provided under state and national schemes; and to provide a safety net for persons who are catastrophically injured but are ineligible for compensation under a state-based scheme. It would be a concern to the Queensland Government and the community as a whole if the outcome of these two schemes is a two tier system with unintended disparities developing between the level of care and support provided in each scheme. Consequently, the Queensland Government suggests further consideration of a national approach to an NIIS, rather than just a federated model. It also suggests further consideration of the merging of the two schemes - an NIIS with an NDIS - earlier than 2020. It is therefore proposed an independent review of the NIIS also be undertaken earlier than the proposed 2020.

The Queensland Government understands the rationale underpinning the creation of an NIIS however a key issue is the additional funding required given the current cost of living pressures and the impact of potential increases to CTP premiums, other insurance products and the proposed tax on rates required to fund an NIIS.

A. Issues relevant to support for a national scheme

Numbers and costings

It is noted that the Commission, relying on estimates by actuaries PricewaterhouseCoopers (PwC) from 2004-05, suggests that (nationally) 800 newly injured people would qualify for an NIIS each year. By the time an NIIS reached maturity there would be around 20,000 participants in the scheme. Relying on actuarial analysis from 2004-05, the Commission estimates the net annual costs of such an NIIS model to be \$685 million (around \$31 per Australian). These estimates are, in all likelihood, an underestimate of the cost on a per capita basis for Queensland.

The Queensland Government notes the lack of current data on the number of catastrophic injured persons and associated costings, in particular for the general injury and medical accident group. For the general injury cohort, the Commission quotes rough estimates from PwC's 2005 analysis which indicated about 220 to 250 people would be catastrophically injured each year across Australia. There is significant uncertainty around the estimates and further analysis is required on the likely current incident rate and cost of general injury in Queensland.

In finalising the draft report, the Commission should consider how the data could be updated, in particular for more accurate numbers of catastrophic injuries nationally and per state (especially for medical accident and general injury), care costings, offsets and premiums required.

Funding

It is noted that the source of funds to underwrite the lifetime care and support (LTCS) schemes operating under an NIIS would be determined by each state but could include Compulsory Third Party (CTP) insurance (motor vehicle related injury); Workers Compensation premiums (work related injury); and a surcharge on local council rates (general injuries).

The funding source to cover medical accidents has not been settled upon by the Commission in its draft report. It is also noted that funding for medical accidents is complex given current arrangements with government and private insurers/Medical Defence Organisations (MDO's) for medical negligence and factors such as the multiple existing subsidies by the Australian

Government and the reported potential for premium increases to impact on availability of some specialist medical services.

It is the Queensland Government's view that the Australian Government would be the logical 'owner' of medical accidents rather than it being considered a purely state-based arrangement through the NIIS. The Australian Government is best positioned to source funds for medical accidents – whether from MDOs, taxpayers, or redirecting subsidies. The states' role in sourcing funds for medical accidents appears limited to the possibility of sourcing/redirecting some funds from their self-insurance arrangements.

The proposed NIIS would require states to set and collect premiums from the community under a framework where participant benefits and costs would be heavily influenced by Australian Government scheme design. There are inevitable conflicts were one tier of government set the standards and design and another tier of government is responsible for funding and delivery. The Commission should set its mind to the policy considerations of a move towards a national NIIS arrangement over the medium term. The Commission should not limit its thinking on the NIIS to the initial proposal of a federated model of separate state based no-fault schemes.

In finalising the draft report, the Commission should clarify:

- the preferred funding source for the medical accident group
- the role of the Australian Government in sourcing funds for medical accidents
- the policy considerations of the Australian Government assuming responsibility for the NIIS over the medium term.

B. Matters which will need to be considered if a national scheme was put in place

Coverage

In terms of motor vehicle accidents, the current Queensland CTP scheme provides reasonable and appropriate care and support during the life of a claim for injured persons who are able to prove negligence against another party. This scheme could be extended to provide life time care and support for those claiming damages at common law and also the at fault drivers as has been done in other jurisdictions.

With regard to medical accidents, the Commission envisages an NIIS would provide coverage for those people catastrophically injured due to the negligence of a medical practitioner or cases where there was not necessarily negligence on the practitioner's behalf but the outcome was a sufficiently unexpected or unusual outcome of the medical treatment. Further, an NIIS would not cover catastrophic disability when treatment was delivered in an appropriate and timely manner and there is no clear reason for the condition other than a genetic factor or underlying health condition – an NDIS would provide coverage for people in these circumstances (when it commences). At a high level this seems a reasonable approach. However it raises a number of questions/ needs:

- Objective criteria for determining if an injury is 'catastrophic' in severity will be required for medical accidents. Such criteria should be consistent with other similar injuries in the NIIS.
- Objective criteria or a decision making framework for determining whether a disability was a 'sufficiently unexpected or unusual outcome from medical treatment' or due to a 'genetic factor' or 'underlying condition' would also be required to assist in transparent and efficient decision making.
- If an NIIS (for medical accidents) commenced before an NDIS, this could result in early cost pressures on the medical accident portfolio, through increased investigation and disputation costs as individuals with a disability who don't clearly meet the medical accident criteria may endeavour to gain access to funded services through the NIIS.

- Whether the scope of the medical accident part of an NIIS would be limited to treatment provided by medical practitioners, or include treatment provided by other health providers (such as chiropractors, physiotherapists, dentists, pharmacists etc) and if so whether it should be limited only to registered professionals or those for whom indemnity insurance cover is available.
- Additionally, further consideration should be given to which scheme would be best placed to manage certain injury types such as cerebral palsy to ensure consistency in management of this condition.

In finalising the draft report, the Commission should clarify:

- definitions/eligibility criteria for medical accident, medical negligence and especially the medical accident/incident where the injury is not expected and not related to the negligence of the medical practitioner
- whether medical accidents extend to injuries due to the negligence of other health providers other than medical practitioners eg registered nurses, physiotherapists, chiropractors, pharmacists.

Implementation of an NIIS

The October 2013 timeframe for implementation is ambitious particularly for the no fault medical accident cover due to the significant complexities that would need to be resolved. In addition, as there is no current body that has a similar function to a NIIS, significant resources would be required to develop the required governance structure, enact necessary legislation and establish all operational requirements.

In finalising the draft report, the Commission should consider:

- whether it would be more appropriate to defer at least the introduction of no fault medical accident cover until an NDIS commences in 2015 given the complexities around funding and coverage
- recommending that an independent review of the NIIS be undertaken earlier than 2020, with regard to the possible merging of an NIIS with an NDIS as soon as possible, and prior to 2020.