

CA348337



Tasmania
Explore the possibilities

Draft Report on Disability Care and Support

The Tasmanian Government's Submission to the Productivity Commission

Table of Contents

1	Introduction	4
2	The Tasmanian Situation	6
2.1	Specialist Disability Services	6
2.2	Gateway Services	9
3	National Disability Insurance Scheme.....	12
3.1	The Service Model	12
3.2	Funding.....	15
3.3	Intersection with Mainstream Services.....	18
3.4	Staged Rollout – Regional Test Bed	18
4	National Injury Insurance Scheme	20
4.1	Motor Accidents Insurance Board	20
4.2	Funding.....	22

4.3	Scope.....	22
-----	------------	----

1 Introduction

The Tasmanian Government has been engaged in a number of key developments in recent years that are relevant to the proposals contained in the Productivity Commission (PC)'s Draft Report into Disability Care and Support (Draft Report). These developments include:

- The recognition by the Tasmanian Government that institutional care was not appropriate for people with disability, signified by the closure of Willow Court in New Norfolk in 2000, which marked the end of institutionalised care in Tasmania;
- Australia becoming a signatory to the United Nations Convention on the Rights of Persons with Disability in 2008;
- The signing of a new National Disability Agreement (NDA) with the Commonwealth Government in November 2008;
- The development of a *Social Inclusion Strategy* for Tasmania in 2009 which acknowledges the entrenched and seemingly intractable social exclusion of some groups within the community, including people with disabilities;
- The review and reform of specialist disability support services in Tasmania, which has seen people with disability, their families and carers brought to the centre of the system; the outsourcing of all specialist disability services to the community sector; and the expansion of the Gateways services to provide services for people with disability (see Section 2.2 for further detail);
- Examining a model for a Human Rights Charter for Tasmania including the preparation and release of a Directions Paper in October 2010 to promote discussion in the community and seek feedback;
- The endorsement of the National Disability Strategy in 2011, which sets out a ten year plan for improving the lives of Australian with disability, their families and carers;
- Redrafting of the *Disability Services Act 1992*. The newly drafted Disability Services Bill 2011 (the Bill) was introduced into the Tasmanian House of Assembly on 12 April 2011. The Bill will inform the way specialist support services are provided to people with disability. It establishes a requirement that all services provided under the Bill will respect the inherent dignity of people with disability, along with their individual autonomy, freedom to make their own choices and their right to independence. The Bill also requires that

care and support provided is person-centred and supports the universally adopted principle of “nothing about us without us”; and

- Review of the Tasmanian Government’s Disability Framework for Action (Framework for Action). The Framework for Action sets out the Government’s vision for Tasmania as an inclusive and caring community. It is intended to guide Government action in relation to programs, policy and services for people with disability for the period 2005-2010. The Framework for Action will be reviewed and updated in 2011 to ensure that it is aligned with current State, national and international policies and commitments, including the National Disability Strategy and the United Nations Convention on the Rights of Persons with Disabilities.

The Draft Report is clear in its assessment of the existing specialist disability support system across Australia as being inadequate, unfair and unsustainable. The Draft Report found that a new system is required and proposed two schemes: the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS). The main function of the NDIS would be to provide universal access to specialist long-term care and support services for people with a significant disability, whereas the NIIS would aim to provide coverage for people newly affected by catastrophic injury through a federated model of state based no-fault schemes.

These two schemes are discrete and are treated separately in the Draft Report. This submission will also consider and address each scheme separately on its individual merits, while noting that there is a high level of concern around the boundaries between the two schemes which must be resolved.

While the PC has produced a substantial piece of work, significant questions and areas for concern remain with both the NDIS and NIIS that could be addressed by the PC in its final report. It is anticipated that extensive and prolonged negotiations would be required before any agreement could be reached between the state and territory governments (hereafter referred to as state governments) and the Commonwealth Government. The Tasmanian Government eagerly awaits the final report and its recommendations.

2 The Tasmanian Situation

As noted in the Tasmanian Government's submission of October 2010 to the PC, Tasmania has the highest rate of disability in Australia at 23 per cent. The 2006 Census of Population and Housing revealed that 23 655 Tasmanians, or 5.5 per cent of the population, required daily assistance with self-care, mobility or communication because of a long-term health condition, disability or old age. This was higher than the national average of 4.4 per cent. Excluding people who acquire a disability over the age of 65, more than 11 800 Tasmanians with disability require daily assistance with core activities.

Demand for specialist disability services in Tasmania is greater than current service capacity. Although reforms have supported Tasmania's move away from crisis responses, Tasmania is still only providing services to approximately 53 per cent of the potential population for specialist disability services (PricewaterhouseCoopers, Draft Report National Need and Supply Modelling, Tasmania, May 2010).

This means that 47 per cent of the potential population for specialist disability services in Tasmania is not receiving formal support. This is projected to increase to 55 per cent by 2017-18 based on current funding levels. The PricewaterhouseCoopers research also indicated that informal care is likely to reduce in Tasmania by 1.7 per cent per annum due mainly to the ageing population. This is likely to significantly impact upon the need for formal care services which in turn will significantly impact upon budget demand.

Tasmania currently provides specialist disability support services to over 6 000 Tasmanians with disability via a network of approximately 100 organisations (including 240 service-type outlets) that provide over 20 different service types.

In 2009-2010, Disability Services in the Department of Health and Human Services (DHHS) expended \$125.1 million on direct service delivery including accommodation support, community support, community access, respite, information and advocacy. There are clear indications that significant additional demand will be placed upon specialist services for people with disability due to ageing issues.

2.1 Specialist Disability Services

This section provides further information on the reforms undertaken by the Tasmanian Government in the specialist disability services system in recent years. The information included in this section can be directly linked to a number of the draft recommendations contained in the Draft Report. For example the draft recommendations around assessing care and support needs (draft recommendations related to Chapter 5) and those around individual or self-directed funding (draft recommendations related to Chapter 6).

In Tasmania the Operational Framework for Disability Services 2009 (the Operational Framework) provides the strategic direction for provision of specialist disability services into the future. The ongoing implementation of the recommendations from the Operational Framework has resulted in reforms across the disability sector that are significantly changing the delivery of services to Tasmanian people with disability, their families and carers.

The Tasmanian disability service system aims to be one in which people with disability, their families and carers are at the centre of the system, directing the support and services they require to support their full participation in the economic and social life of their local communities.

In Tasmania changes already implemented under the Operational Framework to support the move to a contemporary and person-centred approach include:

- the completion of the outsourcing of all specialist disability services to the community sector (including assessment and referral services through the Gateway services, see Section 2.2). This has changed the role of the Tasmanian Government from one of service provider to one of contract management, service development, strategic planning and quality assurance;
- the development of a Common Assessment Framework which includes a general screening tool and a targeted disability assessment tool (see Attachment 1 *Common Assessment Framework Practice Manual August 2009* and Attachment 2 *Common Assessment Framework - Targeted Initial Assessment Disability Services*);
- the development of a Unit Pricing model which is intended to be applied to all specialist disability services;
- the development of new services for provision of respite for children;
- the development of a new service model for community access which focuses on person centred planning, local community participation and partnership with non-specialist disability providers;
- changes in governance which mean that DHHS and community sector organisations now share governance responsibility, working jointly to identify and implement policies, systems and solutions within communities. This joint governance has seen the establishment of:

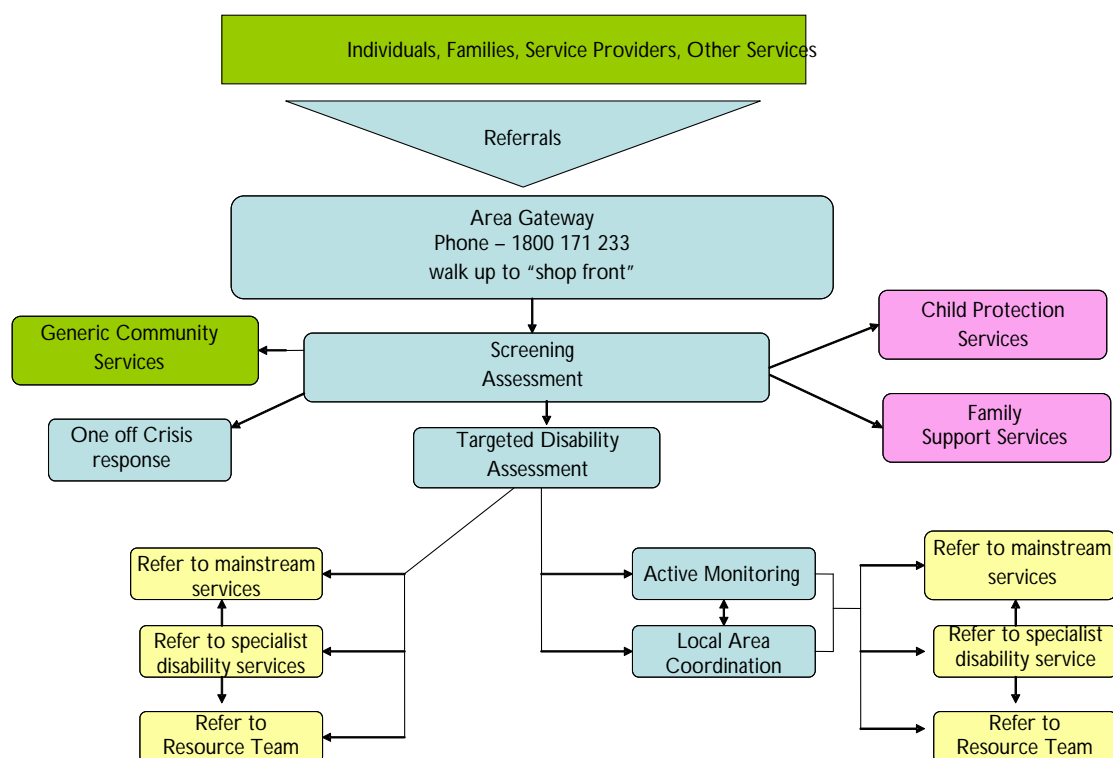
- statewide governance arrangements, led by DHHS in conjunction with key advisory groups (for example the Minister's Disability Advisory Committee), people with disability, sector stakeholders, peak bodies and specialist disability and family service providers; and
- Area Advisory Groups, which are responsible for supporting the coordinated delivery of services, enabling a holistic response to the individual and their family, the provision of a flexible continuum of services locally, and opportunities to make best use of resources at the area level to improve responsiveness to community needs.

The Tasmanian Government is also proceeding with further reform work on individualised funding with a focus on self-managed and self-directed funding. This has been supported by the introduction of the new Disability Services Bill 2011 into the Tasmanian Parliament.

2.2 Gateway Services

The Gateways provide assessment and referral services to families and to people with disability, their families and carers to assist them in their navigation through the service systems to obtain the services most appropriate to their needs. The Gateway services for children and families commenced in Tasmania in August 2009 and for people with disability in July 2010.

The model of Gateway operation in Tasmania is summarised in the diagram below.



There are four Gateways regionally located in Tasmania with a single 1800 telephone number. The Gateways are operated by not-for-profit organisations, two by Baptcare and two by Mission Australia. For more details about the operation of the Gateways see Attachment 3 *Tasmanian Disability Gateway Model*.

The reform of the disability service system in Tasmania was undertaken in consultation with the disability sector in Tasmania over a period of more than 12 months. This involved transitioning approximately 2 000 clients over more than two years. For further detail on the transition process see Attachment 3.

The Gateways collect data according to the National Minimum Data Set in the same manner as other community funded organisations. Other data the Gateways are required to collect include:

- number of initial assessments and targeted assessments;
- referrals to mainstream services;
- referrals to specialist services by service type;
- applications for individual support;
- Wait Lists, including how long people have been waiting for a service; and
- compliments and complaints.

The unmet demand in Tasmania is partially assessed through the Wait Lists maintained by the Gateways. The December 2010 Wait Lists indicated that in Tasmania there were:

- 59 people waiting for critical supported accommodation (although approximately an additional 100 people have indicated their need for supported accommodation through their longer-term planning processes);
- 49 people waiting for community access services; and
- 250 people waiting for Individual Support Packages.

3 National Disability Insurance Scheme

The proposed NDIS would clearly benefit people with significant disabilities and given the proposed increase in resources, the needs of a greater number of people with disability would be covered. Furthermore, the current disparity of disability services between states and territories would be reduced. The NDIS has the potential to make long lasting and far reaching positive impacts on people with disability, their families and carers by enabling person-centred services on an entitlement basis.

The Tasmanian Government supports the underpinning principles of the Draft Report, in that it indicates very strongly that a new system for people with disability in Australia is required. A system that provides greater opportunity for self directed funding with a shift to person-centred decision making and increased national consistency. Such a system would deliver high quality, flexible and responsive specialist services that would complement accessible and responsive mainstream services, such as health, education, employment and transport.

The community members of the Premier's Disability Advisory Council (PDAC) have expressed strong support for an NDIS in advice to the Tasmanian Government. However the community members of PDAC also caution that a new system requires more than a funding boost. A new system needs to put people at the centre and must be based on a policy framework that supports individual decision making, flexible service options and best practice. The community members of PDAC strongly support the Draft Report's proposal that the NDIS will provide people with disability with more choice and greater opportunities to be involved in directing the services they receive.

While the Tasmanian Government supports the proposal for an NDIS that is fully funded and operated by the Commonwealth Government, there are a number of outstanding issues that need to be considered further and resolved prior to entering into any agreement for implementing a new scheme. These matters are discussed under three headings: the service model; funding; and intersection with mainstream services.

This section also discusses the proposal in the Draft Report for a regional test-bed to be rolled out as the first stage in the implementation of the NDIS.

3.1 The Service Model

The proposed NDIS is to provide: access to a universal scheme according to a common assessment; early intervention; strong regional management with local case managers to help people connect with services; increased consumer power and choice over services; direct payments to clients where appropriate;

and for the establishment of Disability Support Organisations (DSOs) to act as intermediaries and assist people with disability and their families to get the best outcomes.

The National Disability Insurance Agency (NDIA) is to be the body responsible for implementing the NDIS including assessing the needs of persons with disability according to what is 'reasonable and necessary'. It will be critical to the final model as to how the differences between 'needs' and 'wants' are defined, and how an individual's needs are assessed according to what is reasonable and necessary.

The NDIA is to have three main functions which separates populations of 'customers' into three tiers: Tier 1 captures the awareness raising function for the entire population; Tier 2 captures the information and referral function for anyone with, or affected by, disability; and Tier 3 focuses on targeted individual support packages of specialist services for eligible people.

In general, the proposed model of operation for the NDIA reflects the way in which the Gateway services operate in Tasmania in terms of assessment and referral of people with disability to specialist and mainstream services. Further information on Tasmania's experience in this area of reform is available in Chapter 2 and in the Attachments to this document.

The PC has dedicated a significant portion of the Draft Report to the development of the proposal for an NDIS. Despite this level of discussion, there are a number of areas of concern that require further consideration, analysis and development by the PC in its final report.

- An NDIS would have a significant impact on existing specialist disability service providers in Tasmania. Further analysis is required to ensure that an NDIS would fully consider the need for appropriate service development so that the community sector in Tasmania would have the capacity to provide increased services through a suitably qualified workforce, particularly in remote and regional areas. As a result of recent reforms, the Tasmanian Government is acutely aware that the reform of service delivery is dependent on ongoing development of the disability service sector and workforce. This is to ensure that there is a platform of innovative supports that meet the needs of people with disability, their families and carers. The Government is also aware that currently it is difficult to recruit and maintain staff in this sector especially as it is in competition with other sectors such as aged care and allied health services. It is therefore important that the costs associated with increasing and building workforce capacity is included in the funding model for the NDIS.

- The Draft Report discusses issues around the development of a robust assessment tool that is relevant in all circumstances and for all people. Tasmania has developed a Comprehensive Assessment Framework with a strong focus on person-centred planning (see Attachments 1 and 2).
- Further clarity is needed around the benefits to existing and potential clients of the proposed reforms. A clear statement is needed on the desired outcomes for clients under the proposed three tiers of service delivery and an explanation of how the interface between the tiers might be managed. Of particular concern is the definition and separation of Tier 2 and Tier 3 customers of the NDIA. For example, there is uncertainty around existing recipients of specialist disability services being able to maintain their current level of service in a national system. Furthermore, differences between the existing definitions, criteria and assessment and that of the NDIA could result in community expectations that state governments meet residual demands for services if the scope of NDIS coverage and level of service does not meet demand for services. As the NDIS proposes state governments transferring full policy and funding responsibility for disability support services to the Commonwealth Government, it would need to be clear that in the event of an NDIS, state governments would retain no responsibility for providing specialist disability services for individuals assessed as not being eligible for Tier 3 level support.
- Transition to an NDIS would need to recognise the past and existing efforts of state governments in developing innovative approaches to services and funding. This includes self-directed services and more autonomy about service choices and funding arrangements. There are examples of good practice currently operating across state disability service systems that could be used to build on, and enhance, future arrangements for disability services.
- The management of the interface between other areas of state government service provision, such as aged care, health, mental health, housing and education, will also need to be worked through noting that there is a potential for increased demand for mainstream services through referrals from the NDIA (see Section 3.4 for further detail).
- There is uncertainty around where the responsibility will sit in the NDIS for providing specialist disability funding for services such as information and support, referral, advocacy and research. The Tasmanian Government currently provides block funding to a number of organisations that provide these services including the Cerebral Palsy Association, Guide and Hearing Dogs Tasmania and TasDeaf. This uncertainty is also relevant for those advocacy services that are broader

than those services that might be provided through the DSOs. This includes independent advocacy.

- In light of the Tasmanian experience in transitioning to the Gateways, the proposal for the timeframe to implement the NDIS appears optimistic. Due to the significant planning and preparation work required to transition eight separate disability service systems into a national model, a first stage comprehensive trial in a region by 2014 may be difficult to achieve.

3.2 Funding

Preliminary estimates on costs in the Draft Report suggest that the cost of the NDIS would be \$6.3 billion *above* (or approximately double) the current spending of all levels of government in Australia. This would mean that the total cost of the scheme would be around \$12.5 billion per annum.

The Draft Report proposes that states/territories should offset the Australia-wide tax implications of the NDIS by either: (a) reducing inefficient state and territory taxes by the equivalent amount spent on providing specialist disability services; or (b) transferring funding equivalent to the amount spent on disability services directly to the Commonwealth Government. The PC recommends the first option over the second. The balance of the Commonwealth Government contribution to fund the system is to come from the Commonwealth consolidated fund, with the additional option of a levy on income tax (similar to the Medicare levy) to ensure adequate revenue.

In advice to the Tasmanian Government, the community members of PDAC assert that the Commonwealth Government should support this recommendation and guarantee that the additional funding will be recurrent and not subject to reductions over time. Instead, steps should be implemented to ensure that funding will increase as the population of people with disability, the demand for services, and the costs for those providing services, increases.

At first glance, the scheme would seem to be cost neutral for state governments however there are a number of funding issues that are discussed below.

- It is unclear how the quantum of funds (or taxes forgone) from the states and territories would be determined. In the event of the transfer of full policy and funding responsibility for specialist disability services to the Commonwealth Government, an assessment should be made at a point in time to determine and agree the quantum of funds to be transferred reflecting the funding allocated by state governments. The funds should not be subject to indexation.
- Should the Commonwealth elect to cap its financial exposure under the scheme, it must be clear that state governments retain no responsibility for providing specialist disability services.
- There is also a potential for increased demand for mainstream services in Tasmania (such as health, housing, transport and education) through referral from the new national scheme. State governments would retain responsibility for the delivery of a number of mainstream services and would continue to make decisions on access to services reflecting eligibility and capacity.
- Further detail is needed on how the shift from existing arrangements, where states are primarily responsible for disability services and are the primary funders, would be managed. Under the National Disability Agreement, states fund around 80 per cent of disability services, with the Commonwealth Government funding the remaining 20 per cent. Clients are also funded to different levels across jurisdictions, so it will be important that the transition of services to a uniform and national scheme would not result in disadvantages to existing clients.
- The current level of unmet demand or need in Tasmania for specialist disability support services is unclear. There is no robust data on unmet need and hence there is a risk that modelling will not capture this accurately. There is also little understanding of latent demand. That is where people do not approach services, or delay approaching services

until there is a crisis. For example when an elderly parent/s is solely responsible for the care of an adult child with disability, but due to ageing or health issues the situation is brought to the attention of service providers when there has been no previous contact. Further, in Tasmania when services were transferred to the Gateways, greater numbers of clients contacted the Gateways in the first two months of their operation than had been predicted. It is therefore important that further work is undertaken on unmet demand, unmet need and latent demand to ensure that the NDIS is scoped and funded appropriately.

3.3 Intersection with Mainstream Services

Many questions remain regarding the interface between the NDIS and other areas of mainstream service provision including aged care, health, mental health, housing, employment services, income support, education and transport.

The Tasmanian Government supports the continued focus on increased accessibility of mainstream services by people with disability and better opportunities for people with disability to fully participate in our community.

There is a lack of detail in the Draft Report on how the NDIA would make referrals to mainstream services and the level of expectation that might be made upon making such referrals regarding access and eligibility. If full responsibility for specialist disability services were transferred to the Commonwealth Government as part of an NDIS, state governments would retain policy and funding responsibility for the bulk of mainstream services including health, mental health, housing, education and transport (noting that income support and employment services are a Commonwealth Government area of responsibility). In these circumstances the mainstream service would retain authority over the assessment process and access to services.

Consideration would also need to be given to the development of appropriate cooperative and collaborative arrangements between the NDIA and the key government agencies responsible for mainstream service delivery. Such arrangements would conceivably provide detail on the separation between specialist disability services and mainstream services and the process for making referrals.

3.4 Staged Rollout – Regional Test Bed

The Draft Report suggests that implementation of the NDIS could be commenced through a regional roll out that would incorporate all of the functions and structure of the NDIS as a first 'test bed' stage. It is suggested that the region selected would service a modest number of clients of around 10 000. Tasmania would be an appropriately sized and distinct region for such a roll out, and would be well positioned given the reforms undertaken to date in the specialist disability services sector.

While this submission outlines a number of areas of concern and highlights the need for further work in others, the Tasmanian Government does not see these matters as barriers to the agreement and implementation of an NDIS. Further extensive analysis of the issues and negotiation between the relevant levels of

government is required to achieve consensus on the model, governance, funding and transition arrangements before an agreement can be reached.

Pending successful resolution of these issues and the negotiation of an appropriate agreement between the state and Commonwealth Governments to implement an NDIS, the Tasmanian Government would like to signal its intention to be considered as a candidate for the regional test bed for a full roll out of the NDIS as a prelude to national implementation.

4 National Injury Insurance Scheme

The proposed NIIS would cover people's lifetime care and support needs if they acquired a catastrophic injury from any accident related to motor vehicles, medical treatment, criminal injury and general accidents. The proposal is for a federated model incorporating separate state schemes.

While it is a much smaller scheme than the NDIS, the NIIS raises much greater concerns for the Tasmanian Government. The proposed federated model would result in state governments losing full control over the rules for the scheme while retaining full funding responsibility and liability. Conversely, the model also proposes that the Commonwealth Government would be involved in setting the rules, or minimum standards, but would have no funding responsibility.

This is a particular area of concern as dividing disability care (in the NDIS) from catastrophic injury care (in the NIIS) and assigning different levels of government with responsibility for the schemes, could result in gaps between the boundaries of the two schemes. This type of challenge could be avoided if one level or government became responsible for both disability care and catastrophic injuries.

In addition to the above points, the Tasmanian Government has a high level of concern about this scheme given: its capacity to impact on the effective operation of the existing Motor Accidents Insurance Board (MAIB); the unsatisfactory funding proposal for municipal rates and land taxes to be the source for the broader suite of claims; and the potential for unfunded liabilities to accrue. While a significant portion of the Draft Report is dedicated to the NDIS, further detail is required in the PC's final report to further develop the proposal for an NIIS.

4.1 Motor Accidents Insurance Board

In Tasmania, there is already a highly regarded and efficient no-fault compensation scheme that provides compensation and ongoing care for persons injured in motor accidents. The scheme is administered by MAIB and is fully funded by premiums, which means that the costs of the scheme are borne entirely by the potential beneficiaries.

The proposed NIIS is much broader in scope than the existing Tasmanian compensation scheme and would have a significant impact on MAIB if its responsibilities were expanded to include medical, criminal and general catastrophic injury. There is very limited data available on these types of injuries, although it is understood that they typically comprise the highest costs and support over an individual's lifetime. The Tasmanian Government is concerned that the additional costs estimated for Tasmania in the Draft Report (Table 16.1) are seriously underestimated.

The MAIB operates on a commercial basis. The proposal to extend the scope of MAIB as per the NIIS has the potential to carry significant financial risks that could affect the Board's viability.

4.2 Funding

The PC has proposed that the additional funding required for the NIIS would come from existing insurance premium sources (for motor accidents) and through increases in municipal rates (for criminal and other general accidents).

There seems to be no rationale attached to increasing municipal rates or land tax to cover criminal and other general accidents, as the level of rates paid is not related to the value of potential claims. Further, local councils are highly likely to oppose their involvement as a revenue collecting agency for the scheme.

If premiums collected from local councils and other sources prove to be insufficient, and there is a high risk that this will be the case, the Tasmanian Government may be required to impose additional levies or fund the NIIS from the Consolidated Fund. The Tasmanian Government would also be required to underwrite any potential liability of the scheme. This is not acceptable, particularly when there is cover available in the private sector. Examples of insurance cover available in the private sector include: legal liability, medical malpractice; workers' compensation; and accident and sickness (income protection) insurance.

4.3 Scope

The NIIS also has the potential to create perverse incentives. Economically efficient outcomes are encouraged by arrangements where those most liable to risk arising from potential injury are responsible for managing that risk. However, the proposed scheme is likely to reduce the incentive to manage risk and consequently encourage inefficient outcomes. For example, there would seem little incentive for people to take out private insurance under the scheme.

While the Draft Report proposes that the NIIS be operated and funded by state governments as a federation of separate state-based schemes, it also suggests that the Commonwealth Government would have a role in implementing the scheme and setting the national minimum standards. There are concerns that having two schemes operated by two different levels of government could result in a 'push – pull' effect between the schemes. This could result in confusion regarding entitlements and eligibility for some clients and ultimately confusion over whether they fall within the NDIS or NIIS. This type of problem could be avoided if one level of government is responsible for both disability care and catastrophic injury care.

The Tasmanian Government requests that the PC undertake a closer examination of the option to implement a merged NDIS and NIIS operated by one level of government - the Commonwealth. The Draft Report provides no strong reasoning for the separation of the two schemes. There would also need to be consideration of exceptions where there are existing and adequate state insurance arrangements in place, such as for motor accidents under Tasmania's MAIB operated scheme.