Australian Government
Productivity Commission

National Disability Insurance Scheme (NDIS) Costs

Productivity Commission Position Paper
Overview & Recommendations

June 2017

This position paper has been prepared for further public consultation and input. The Commission will finalise its report after these processes have taken place.

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The Productivity Commission

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The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website (www.pc.gov.au).

Opportunity for further comment

You are invited to comment on this position paper by written submission to the Productivity Commission by Wednesday 12 July 2017. Further information on how to provide a submission is included on the study website: http://www.pc.gov.au/inquiries/current/ndis-costs/make-submission.

The final report will be prepared after further submissions have been received.

Commissioners

For the purposes of this study the Commissioners are:

Angela MacRae	Commissioner
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The full report is available from www.pc.gov.au

OVERVIEW

Key points

- The National Disability Insurance Scheme (NDIS) is a complex and highly valued national reform. The scale, pace and nature of the changes it is driving are unprecedented in Australia. If implemented well, it will substantially improve the wellbeing of people with disability and Australians more generally.
- The level of commitment to the success and sustainability of the NDIS is extraordinary. This is important because 'making it work' is not only the responsibility of the National Disability Insurance Agency (NDIA), but also that of governments, participants, families and carers, providers, and the community.
- Based on trial and transition data, NDIS costs are broadly on track with the NDIA's long-term modelling. While there are some emerging cost pressures (such as higher numbers of children entering the scheme), the NDIA has put in place initiatives to address them. The benefits of the NDIS are also becoming apparent. Early evidence suggests that many (but not all) NDIS participants are receiving more disability supports than previously, and they have more choice and control.
- Nevertheless, the speed of the NDIS rollout, as specified in Bilateral Agreements between governments, has put the scheme's success and financial sustainability at risk. It has resulted in the NDIA focusing too much on meeting participant intake estimates and not enough on planning processes, supporting infrastructure and market development.
  - This focus is manifest in poor outcomes such as confusion for many participants about planning processes; rushed phone planning conversations; inadequate pre-planning support for participants; problems for providers with registering, pricing and receiving payment; and a lack of effective communication with both participants and providers.
- For the scheme to achieve its objectives, the NDIA must find a better balance between participant intake, the quality of plans, participant outcomes, and financial sustainability. Steps are now being taken by the NDIA to better balance these aspects. Greater emphasis is needed on pre-planning, in-depth planning conversations, plan quality reporting, and more specialised training for planners. The Commission is unable to form a judgment on whether such a refocus can be achieved while also meeting the rollout timetable.
- The interface between the NDIS and other disability and mainstream services is also critical for participant outcomes and the financial sustainability of the scheme. Some disability supports are not being provided because of unclear boundaries about the responsibilities of the different levels of government. Governments must set clearer boundaries at the operational level around 'who supplies what' to people with disability, and only withdraw when continuity of service is assured.
- A significant challenge is growing the disability care workforce required to deliver the scheme — it is estimated that 1 in 5 new jobs created in Australia over the next few years will need to be in the disability care sector. Present policy settings are unlikely to see enough providers and workers as the scheme rolls out. Some emerging shortages need to be mitigated by better price monitoring and regulation; better tailored responses to thin markets; formal and informal carers allowed to provide more paid care; and a targeted approach to skilled migration.
- NDIS funding arrangements could better reflect the insurance principles of the scheme, including by allowing more flexibility around the NDIA's operational budget and providing a pool of reserves. Funding contributions made 'in-kind' must be phased out.

Overview

This position paper outlines the Commission's early thinking on the National Disability Insurance Scheme (NDIS) Costs study. The purpose of this position paper is to seek feedback on the Commission's preliminary conclusions and draft recommendations, and on any additional issues that should be considered before the public release of the completed study in September 2017. The Commission welcomes further written comment on this paper, and will undertake consultations to facilitate feedback from participants to inform the preparation of the study report.

More data and information, while still only reflecting the transition stage of the NDIS, will be available before the study's final report is released. As such, the recommendations made in this paper should be viewed as indicative.

1 About the National Disability Insurance Scheme

The NDIS is a new scheme designed to change the way that support and care are provided to people with permanent and significant disability (a disability that substantially reduces their functional capacity or psychosocial functioning). The scheme seeks to create opportunities for people with disability to live 'an ordinary life'. The NDIS is currently being rolled out across Australia. At full scheme, about 475 000 people (460 000 participants under the age of 65 years, and 15 000 aged 65 years and over) with disability will receive individualised supports, at an estimated cost of $22 billion in the first year of full operation.

The NDIS is based on the premise that individuals' support needs are different, and that scheme participants should be able to exercise choice and control over the services and support they receive. The scheme differs from previous approaches in a number of ways:

- it adopts a person-centred model of care and support
- it is an insurance-based scheme — it takes a long-term view of the total cost of disability to improve participant outcomes and to meet the future costs of the scheme (box 1)
- funding is determined by an assessment of individual needs (rather than a fixed budget)
- it is a national scheme.

The NDIS funds reasonable and necessary supports for Australians with permanent and significant disability. Reasonable and necessary supports are those that help participants live as ordinary a life as possible, including care and support to build their skills and capabilities, so that they can engage in education, employment and community activities.

Box 1 The NDIS is based on insurance principles

The National Disability Insurance Scheme provides universal coverage by pooling risk across all Australians and taking the risk of disability support costs away from individuals. It is based on four insurance principles.

1. Actuarial estimate of long-term costs — updated to reflect the experience of the scheme, and used to help ensure the scheme is financially sustainable and continuously improved.
2. A long-term view of funding requirements — takes a lifetime view of participant needs and seeks early investment and intervention for people in order to maximise their independence, and social and economic participation, and reduce their long-term support requirements.
3. Investment in research and innovation — to encourage and build the capacity and capability for innovation, outcome analysis and evidence-based decisions on early interventions.
4. Investment in community participation and building social capital — to make the community accessible and inclusive for people with disability, and provide participants and non-participants with necessary supports outside of the scheme, through: mainstream services; Information, Linkages and Capacity Building initiatives; and education programs.

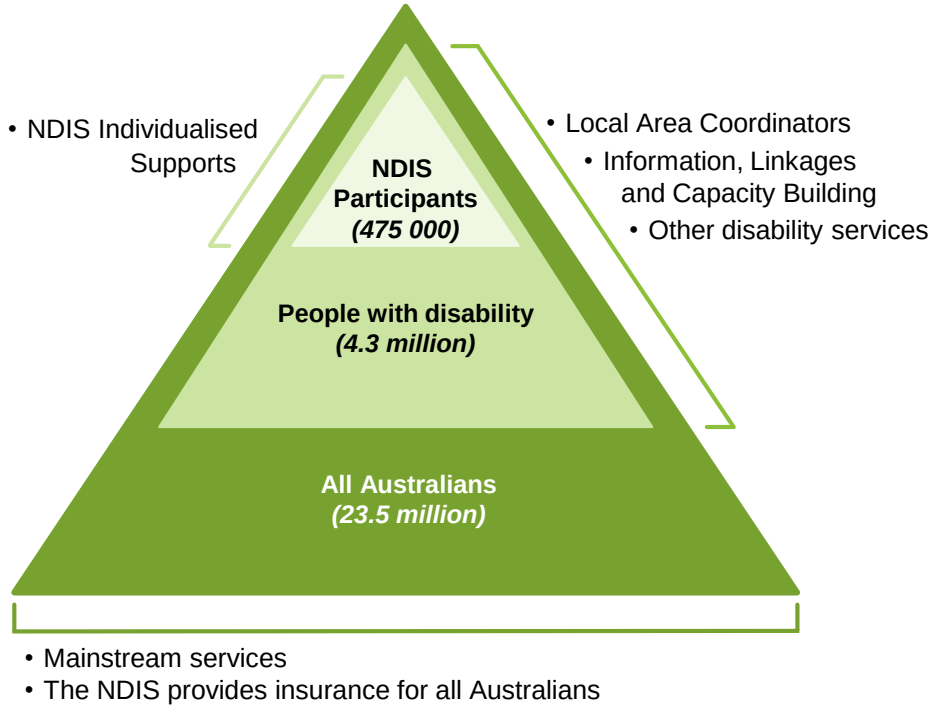
The NDIS also funds supports for people who meet early intervention criteria. This covers cases where early intervention can significantly improve an individual's outcomes and is cost-effective. The focus on early intervention reflects the lifetime approach of the scheme (which is consistent with insurance principles, box 1).

Individuals eligible for the scheme are assessed, and individualised support packages are developed and funded for them. Individualised supports will be available for about half a million people at full scheme (figure 1). NDIS access, planning and payments are managed by the National Disability Insurance Agency (NDIA). (In Western Australia, arrangements are different to reflect a recently announced Bilateral Agreement with the Commonwealth, but the scheme in Western Australia is intended to be consistent with the NDIS.)

Information, Linkages and Capacity Building (ILC) services will also be provided under the NDIS from July 2017. ILC services will provide information about, and referrals to, community and mainstream services (including health, education, employment, transport, justice and housing). These services will be available to the 4.3 million people with disability in Australia (figure 1).

The governing legislation for the NDIS is the *National Disability Insurance Scheme Act 2013* (Cwlth) (NDIS Act). The Act also establishes the NDIA, the independent statutory agency responsible for administering the NDIS. The NDIS Rules and Operational Guidelines set out the operational details of the NDIS. Funding for the NDIS is shared by the Australian, and State and Territory Governments.

Figure 1 **The NDIS is part of a broader system of supports**[a]



[a] Number of Australians and those with disability are based on 2015 data. NDIS participants are the projected number of people eligible in 2020.

Some background to the scheme

The Commission's inquiry in 2011 on *Disability Care and Support* found that Australia's system of disability support was inequitable, underfunded, fragmented, inefficient, and gave people with disability little choice and no certainty of access to appropriate supports. The Commission recommended a new national scheme to provide insurance cover to all Australians in the event of significant disability. This recommendation was based on the finding that such a scheme would generate substantial benefits, including:

- improved wellbeing of people with disability (and their families and carers)
- better options for people with disability for education, employment, independent living and community participation
- efficiency gains and cost savings in the disability support system and savings to other government services.

The Commission's recommendations on the national scheme were largely accepted by Australian governments. The *Intergovernmental Agreement for the NDIS Launch* was signed by the Commonwealth and all States and Territories in December 2012.

2 What we have been asked to do and our approach

In the Heads of Agreement on the NDIS signed by the Commonwealth and the States and Territories in 2012 and 2013, it was agreed that the Productivity Commission would review NDIS costs in 2017 to inform the final design of the full scheme prior to its commencement. The Commission has been asked to look at:

- the sustainability of scheme costs, including current and future cost pressures, and how to manage any potential cost overruns
- whether jurisdictions have the capacity to deliver disability care and support services as the scheme expands
- how the NDIS impacts on, and interacts with, mainstream services
- whether efficiencies have been achieved within the scheme
- whether there are any issues with scheme design, including the application of market and insurance principles, in ensuring the best possible outcomes for people with profound or severe permanent disability
- funding and governance arrangements.

What factors drive scheme costs?

Assessing the sustainability of the scheme involves examining the factors that drive costs. The majority of NDIS costs are for individualised supports, but there are also the costs of operating the scheme and funding ILC activities.

Key factors driving scheme costs include the:

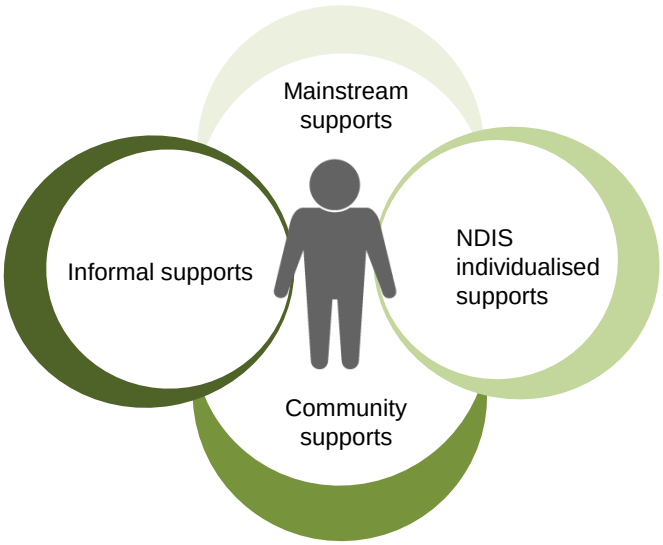
- number and characteristics of scheme participants
- scope of supports provided to scheme participants
- quantity of supports received by scheme participants
- proportion of supports in a plan that is utilised by a participant
- price paid for supports under the scheme
- costs associated with operating the scheme.

Scheme culture will also be an important driver of costs. Moving away from the welfare culture of current disability systems to one of providing reasonable and necessary supports, and managing down the total cost of disability over a participant's lifetime, will be critical for the financial sustainability of the scheme.

Other support systems can also affect scheme costs. The NDIS, as a person-centred approach to providing disability supports, relies on supports and services outside the scheme, including informal supports (family, friends and neighbours), community supports

(local sporting teams, social and interest groups), and mainstream supports (public transport, health and education), to help people with disability to live ordinary lives (figure 2). If these supports are not available, people with disability could seek NDIS funding to fill the gap, and this could pose a risk to scheme costs.

Figure 2 **A person-centred approach relies on supports beyond the NDIS**



Costs are just one side of the equation

While the focus of this study is on scheme costs and the financial sustainability of the scheme, the Commission examined costs in light of the benefits and impacts of the scheme on the lives of people with disability, and Australians more generally, using a wellbeing framework (figure 3).

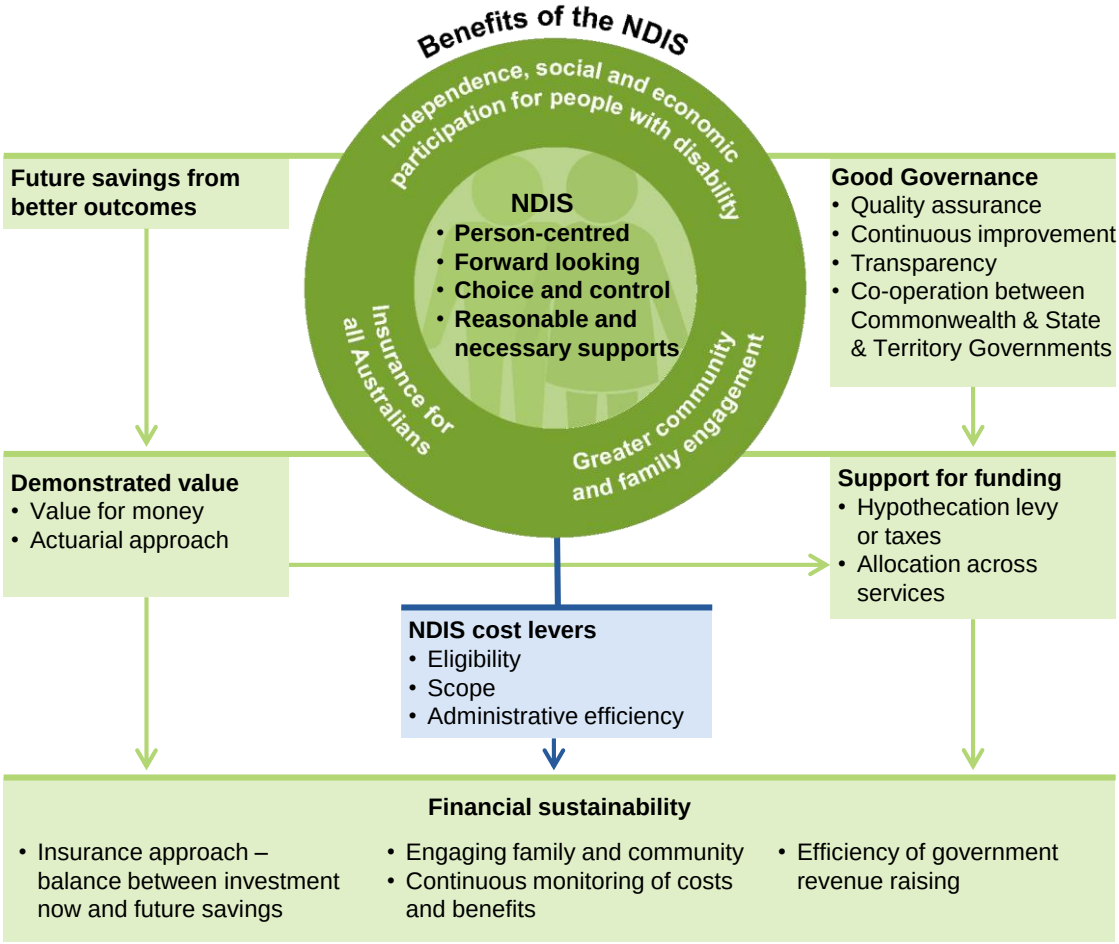
The NDIS was introduced because it has potential to improve the lives of people with disability and the community more generally (by providing insurance for all Australians and lowering future costs of providing disability support). It is therefore essential that the costs to the community are considered in the context of scheme outcomes.

Taxpayers' willingness to fund the NDIS will depend on their perception of value for money, in terms of:

- people with disability experiencing better lives as a result of the scheme
- the scheme making it easier for families and carers to play a supporting role
- the way the scheme invests in people with disability
- the supports that are funded (and the evidence base to support what is funded)

- efficiency gains and cost savings in the disability support system and other government services.

Figure 3 **A wellbeing framework for considering costs and benefits**



While the NDIS is sometimes described as an 'uncapped scheme', the ultimate cap — and test of financial sustainability — is taxpayers' continuing willingness to pay for it. In line with this, the NDIA defines financial sustainability for the NDIS as:

- the scheme is successful on the balance of objective measures and projections of economic [and] social participation and independence, and on participants' views that they are getting enough money to buy enough high-quality goods and services to allow them reasonable access to life opportunities — that is, reasonable and necessary support; and
- contributors think that the cost is and will continue to be affordable, under control, represents value for money and, therefore, remain willing to contribute.

The NDIA's actuarial estimates of long-term costs (which reflect the experience of the scheme and management responses to cost pressures) play an important role in demonstrating to the Australian community that the scheme is sustainable.

Perceptions about the governance arrangements for the NDIS are also important. For example, the community expects planning processes to be in line with the objectives of the scheme and that services meet quality standards. Governments also need to demonstrate that the NDIS funds are dollars well spent, and that funding the scheme is not to the detriment of other important social expenditure (such as health and education).

Financial sustainability of the NDIS also needs to be considered in the context of the efficiency and effectiveness of the NDIA, the readiness of participants and providers, and the integration of the scheme with mainstream and other disability services. Only a system that is integrated and holistic in its focus will bring the benefits that the scheme is expected to deliver.

Modelling costs

In 2011, the Commission estimated that a national disability insurance scheme would cover 411 000 participants and cost $13.6 billion (gross) at maturity. The NDIA's current projections are that the NDIS will cover 475 000 participants and cost $22 billion at full scheme commencement.[1] The NDIA's estimates are broadly consistent with the Commission's 2011 modelling (table 1).

There is an $8.9 billion difference between the Commission's original estimates and the NDIA's current estimates. This is largely the effect of pay rises awarded to social and community services employees by the Fair Work Commission in 2012, accounting for over $6 billion or 71 per cent of the difference. Combined with population changes and the cost of participants aged over 65 years (who entered the scheme when they were under 65 years of age), this brings the estimates to within one per cent of each other (table 1).

Table 1 **Comparing the Commission's and the NDIA's costings**

	Participant numbers	*Scheme costs ($ billions)*
Productivity Commission estimates 2011[a]	**411 250**	**12.82**
Population projections to 2019-20	49 544	1.54
Inflation in disability sector (wages)	..	6.38
Participants aged 65 years and older	15 285	1.09
Updated Productivity Commission estimates 2017	**476 079**	**21.84**
The NDIA's projections for participants 2017[b]	**473 653**	**21.76**
Difference (%)	2 426 (0.5%)	0.08 (0.4%)

a Excluding operating costs and offsets associated with the National Injury Insurance Scheme and assumed efficiency dividends. **b** Excluding operating costs ($1.5 billion), offsets associated with the National Injury Insurance Scheme (-$0.7 billion) and assumed efficiency dividends (-$0.3 billion).

1 While the gross cost of the NDIS is estimated to be $22 billion in 2019-20, the scheme is expected to reduce the funding required for a range of government programs. A review by the Australian Government Actuary in 2011 estimated that these offsets were around $11 billion.

It is too early and the data are too limited for new cost projections

It is still very early days in the NDIS's transition to full scheme. And while the transition experience should inform estimates of full scheme costs, the data have too many limitations to update the prevalence and package cost assumptions. An important limitation is small and unrepresentative trial populations, but approaches to planning and assessments have also changed.

The Commission has not developed new projections of scheme costs for the position paper and will not, given the data limitations, be in a position to do so for the final report. Rather, we have assessed the risks to the financial sustainability of the scheme, including both those within and outside the control of the NDIA. Many of these risks cannot be modelled.

3 An enormous challenge

The NDIS is a major, complex national reform, the largest social reform since the introduction of Medicare. It will:

- involve a shift away from a block-funded welfare model of support, to a fee-for-service market-based approach
- increase funding in the sector from around $8 billion per year to $22 billion in 2019-20
- involve assessing the 'reasonable and necessary' needs of around 475 000 people
- require around 70 000 additional disability support care workers (or around 1 in 5 of all new jobs created in Australia over the transition period)
- substantially improve the wellbeing of people with disability and Australians more generally (if implemented well).

It is therefore no surprise that the NDIS has been described as a 'ground-breaking reform' and a 'once-in-many-generation reform'.

The level of commitment to the NDIS is extraordinary

There is an extraordinary level of commitment to the success and sustainability of the NDIS (and to preserving the core principles of the scheme) shared by governments, people with disability and their families and carers, providers of disability services and disability advocates (box 2). As the Australian Disability Discrimination Commissioner said:

> Yes — the NDIS is big, it is complex, and it changes everything, but it is the change that we need. And when we think about what life might be like for people with disability without the NDIS, I think it becomes clear that it is the change we cannot afford to prevent. … If we want real and lasting change for people with disability, we cannot absolve ourselves of our responsibility to make the NDIS work.

Box 2 **There is overwhelming support for the NDIS**

NSW Council for Intellectual Disability:

> … we have been strong supporters of the development of the NDIS and we continue to see [the] scheme as having a fundamental capacity to improve the lives of people with disability around Australia.

Flourish Australia:

> …. strongly supports the NDIS and the opportunity it provides for greater certainty, choice and control, and economic and social participation for people with disability who require life-long support.

JFA Purple Orange:

> … the NDIS is a major, once-in-many-generations opportunity to invest in the life chances of people living with disability, to achieve a fair go, so that people living with disability take their rightful place as … valued active members of Australian community life and the economy.

National Disability Services:

> The principles on which the NDIS is founded remain compelling and inspiring.

Australian Federation of Disability Organisations:

> We want to begin … by emphasising our unwavering support for the NDIS. AFDO and its members regularly hear from people with disability and their families about the difference the NDIS is making to their lives. People who now have the dignity of appropriate and timely support, the opportunity to be more involved in their communities, the chance to move out of home, the economic freedom of a new job. These are the kinds of differences the NDIS is making.

Anglicare Australia:

> Anglicare Australia strongly believes that the establishment of the NDIS is a major achievement. Our member agencies are already witnessing the transformative power of the scheme for participants, and finding that reconfiguring services to reflect their needs and aspirations is creating opportunities to reimagine and create better outcomes in people's lives.

Health Services Union:

> The HSU has always been a strong supporter of the NDIS and our longstanding position has been that quality disability services depend on a quality workforce.

New South Wales Government:

> The NSW Government is a strong advocate of the National Disability Insurance Scheme (NDIS). The improvement in the lives of people with disability, as outlined by the Productivity Commission (PC) in its 2011 inquiry report into Disability Care and Support, is a goal embraced by NSW.

A highly ambitious rollout schedule

The NDIS was trialled from 2013 in different jurisdictions across Australia in four trial sites (including two whole-of-state age cohort trial sites). Trials commenced in July 2013 in New South Wales, Victoria, South Australia and Tasmania (table 2).

Table 2 **NDIS transition arrangements by jurisdiction**

	Trial period			Transition to full scheme			Full scheme
	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
NSW	Hunter area trial			Transition to full scheme (by region)		Full scheme	
		Early Transition in Nepean Blue Mountains area (children aged 0-17 years)					
Vic	Barwon area trial			Transition to full scheme (by region)			Full scheme
Qld			Transition to full scheme from July 2016 (by region). Early Transition from January 2016 in Townsville, Charters Towers and Palm Island				Full scheme
SA	Statewide trial (children aged 0-14 years)			Transition to full scheme (by age and region)		Full scheme	
Tas	Statewide trial (people aged 15-24 years)			Transition to full scheme (by age)			Full scheme
NT		Barkly region trial		Transition to full scheme (by region)			Full scheme
ACT[a]		Territorywide trial		Full scheme			
WA[b]		Perth Hills area trial			Transition to locally-administered NDIS		Full scheme
		MyWay trial					

[a] The Bilateral Agreement for the NDIS launch between the Australian Government and the ACT Government notes that from 2016-17 the ACT will be in 'transition to full scheme'. This transition has been categorised as 'full scheme' because all residents who meet the eligibility criteria will have access to the scheme. [b] In February 2017, the Australian Government and Western Australian Government signed a Bilateral Agreement for a nationally consistent, but locally administered, NDIS.

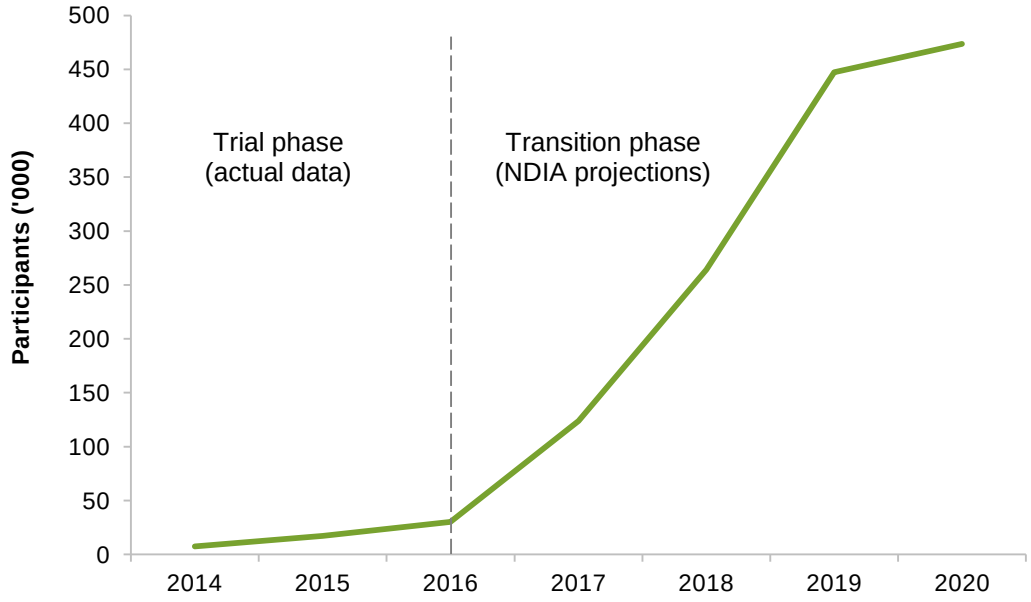
The Bilateral Agreements between the Commonwealth and the States and Territories set out the timeframes, and the estimated number of people who will become participants in the scheme, for the transition to full scheme in each jurisdiction. The transition to the full scheme began in all states and territories in July 2016, with the exception of Western Australia (which will transition from July 2017). The full scheme is scheduled to be rolled out by 2019-20, but some jurisdictions will move to full scheme earlier.

The Commission's 2011 report recommended that the trials start a year later than they did and also that they operate in only two geographic locations. According to the NDIA, the changed timing and breadth of the trial compromised what the NDIA could achieve in the short term and as a consequence, some aspects of the scheme were being built and tested over the trial period. For example, the NDIA started the trial without an assessment tool to determine reasonable and necessary supports, and had to build one over the first three months of operation. And the ICT system used during trial was an interim system which would not scale up to full scheme.

An independent review of the capabilities of the NDIA described the Agency as 'a plane that took off before it had been fully built and is being completed while it is in the air'.

The NDIA has been given an extremely difficult task — the rollout schedule is highly ambitious given the magnitude of the reform. To reach the estimated 475 000 participants at full scheme by 2019-20 (figure 4), the NDIA will need to approve hundreds of plans a day. In the March 2017 quarter, the NDIA approved about 14 000 plans, or roughly 160 plans a day. In 2018-19 (the final year of transition), the NDIA's modelling indicates that about 500 plans a day will need to be approved, while reviewing hundreds more.

Figure 4 **Participant numbers will increase substantially over the next three years[a]**



[a] The projections of scheme participants were prepared by the Scheme Actuary for the NDIA's 2015-16 Annual Financial Sustainability Report using data at 30 June 2016. They do not incorporate actual participant numbers beyond June 2016.

Given the size, speed and complexity of the reform, it is inevitable that there will be transitional issues with the rollout of the NDIS that require careful risk management. It needs to be recognised that the scheme is still in its infancy and it will take time to get things right.

But already there are signs that the rollout schedule is compromising the NDIA's ability to implement the NDIS as intended and putting the financial sustainability of the scheme at risk — and the number of participants entering the scheme is only now just starting to ramp up. At the end of March 2017, around 78 000 participants had approved plans. This is just 82 per cent of the bilateral estimate.

Many of the concerns raised in this study were about the rollout schedule, including concerns around market and provider readiness, the capacity of the NDIA systems to function at full scheme, and the quality of plans (box 3).

The NDIA is aware of the risks of focusing on participant numbers, noting that:

> … bilateral estimates can and do impact upon the way in which the Scheme is delivered. This can put sustainability at risk and impact on the way in which early intervention and investment initiatives are implemented in the short term. It may also have adversely impacted the quality of plans.

The rollout schedule is compromising the integrity of the planning process, and the quality of participant plans. While the NDIA has been set a challenging task of completing high numbers of plans in a short period of time, it is important that it also undertakes the planning process in a way that achieves the objectives of the scheme and financial sustainability. A focus on participant numbers can compromise the depth and quality of the planning process, with the result that some participants are allocated resources without meaningful consultation and are sometimes unable to manage their plans. Quality plans are critical not only for participant outcomes but for containing long-term costs of the scheme (section 6).

The rollout schedule has also meant that parts of the supporting infrastructure that are essential to the objectives of the scheme are not operating as intended. For example, Local Area Coordinators (LACs), who play a key role in delivering information and linking participants to disability services, were supposed to be 'on the ground' in rollout areas six months before participants joined the scheme. Some areas were without LACs after they had joined the scheme.

One option to address these concerns is to slow down the timetable for the rollout. Further discussion of this option is in section 11.

Box 3 **Risks from the rollout schedule are highlighted**

Community Mental Health Australia:

> If the focus purely becomes about signing as many people up as quickly as possible and preventing cost-overruns, then the intent of what the NDIS was actually meant to deliver starts to become lost.

JFA Purple Orange said:

> The NDIS transition arrangements, as set out in the bilateral agreements, mean a tsunami of new participants will be processed into the scheme over the next two years. During this time, any fledgling design features intended to advance what we understand to be the NDIS's underlying values — choice and control, and participation in community life and economy — are at risk, due to the provisions in the various bilateral agreements where a specific volume of people are to enter the NDIS in a specific timeframe and with an associated transfer of specific costs.

Maurice Blackburn Lawyers said:

> We believe the roll-out timeline of the NDIS is highly ambitious and increases the serious risk of inadequate delivery of services to participants. It also poses significant financial risks to the scheme as a whole.

Blind Citizens Australia:

> While we understand that the agency is under intense pressure to meet the targets that have been agreed upon under the bilateral agreements between state and territory governments, meeting these targets should not come at the expense of the basic rights and freedoms of people with disability.

Australian Federation of Disability Organisations:

> The need to bring in a large number of participants into the scheme to meet bilateral targets has during transition led to practices which have not always been consistent the original vision of the scheme.

House with No Steps:

> … the Scheme has aggressive ramp-up targets. These are putting pressure on the NDIA's capacity to develop quality plans for participants. Unfortunately, the need to achieve high growth in participant numbers appears to be outweighing considerations of plan quality and consistency.

Department of Social Services:

> … there are risks arising from the scale and pace of roll-out that has potential to place strain on the NDIA, and on agreed transition timeframes.

Victorian Government:

> Victoria recognises the NDIA has been set the task of completing a very large number of plans in a relatively short period of time and it is important the NDIA perform its planning function adequately. Too great an emphasis on cost containment at this early stage of the NDIS rollout risks undermining the effectiveness of the scheme in meeting the reasonable support needs of participants with adverse implications for longer term costs both to the NDIS and to mainstream services.

4 Key insights from trial and transition data

Costs in the trial phase aligned with expectations

Given the uncertainties around the costings of the scheme before it commenced, an important rationale for trial sites was to inform more reliable estimates of full scheme costs (and for testing and refining the scheme). At the end of the trial phase:

- the number of participants with an approved plan (30 821) was 83 per cent of bilateral estimates (36 307) (there were 35 695 people who had been determined eligible but who did not yet have an approved plan)
- the average annualised package cost was $36 049.

The scheme, at the end of the trial, also came in under budget — there was a surplus of around 1.5 per cent of the funding envelope over the three years. However, this was in large part because not all committed supports were used — in 2015-16, 74 per cent of committed supports were used.

Transition — the latest data

The Commission have data for the first three quarters of transition (July 2016 to March 2017). More data are expected after the release of the position paper.

At the end of March 2017, an additional 63 000 people were eligible for the scheme, taking the total number of participants to 99 092. Around 75 000 participants are currently active (they have not exited the scheme) and have an approved plan. Some insights from the transition data are that:

- autism and intellectual disability are the largest primary disability groups (accounting for almost two-thirds of scheme participants). Psychosocial disability is the next most common disability, accounting for about 6 per cent of scheme participants
- most scheme participants at the end of 2016 were children aged 14 years and under (around 43 000 or 44 per cent of participants). Around 45 per cent of the children in the scheme have autism, while 34 per cent have an intellectual disability (including developmental delay)
- while only 18 per cent of packages approved from 1 July 2016 are more than $100 000, they account for 56 per cent of scheme costs.

Emerging cost pressures

The Commission compared trial and transition data on participant numbers and package costs with the assumptions in the NDIA's modelling to better understand how the scheme

is tracking in terms of costs. Noting the limitations of the data, scheme costs are broadly in line with expectations.

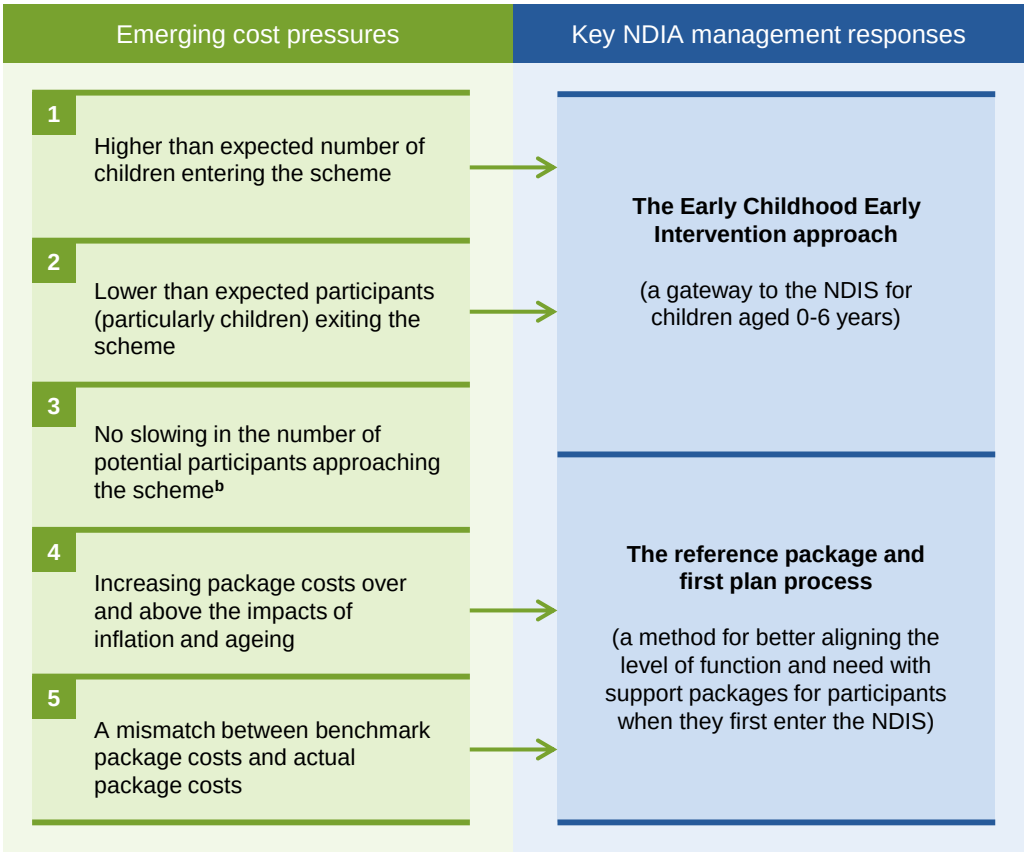
- For most disabilities, participant numbers broadly match the modelling assumptions for all but the largest disability groups — there are more children with autism and intellectual disability than expected.
- Average package costs (for plans effective from 1 July 2016) are higher than the modelling assumptions (after accounting for disability, age and level of function). Breaking this down further:
  - the average package provided to participants with low levels of function is less than expected ($120 000 compared to $150 000)
  - the average package for participants with medium levels of function is higher than the modelling assumptions ($56 000 compared to $41 000)
  - participants with high levels of function are receiving higher packages on average than the modelling assumes ($29 000 compared to $11 000).
- Utilisation rates are lower than expected. Underutilisation is currently offsetting the increase in scheme costs attributable to higher prevalence rates for children and higher than expected package costs.

The NDIA is tasked with ensuring the NDIS is financially sustainable. This involves identifying and managing emerging cost pressures. The NDIA has identified five early cost pressures that need to be managed for the full scheme going forward (figure 5).

- The number of children entering the scheme is higher than expected.
- The number of people approaching the scheme in trial sites that have been operating the longest (since 2013) is higher than would be expected if only people with newly acquired conditions were approaching the scheme.
- The number of participants exiting the scheme has been lower than expected (particularly for children entering under the early intervention requirements).
- Levels of committed support tend to increase as participants move to their second and third plans (over and above the impacts of inflation and ageing).
- There is greater than expected variability in package costs for participants with similar conditions and levels of function (suggesting inconsistencies in planners' decisions).

The NDIA has not updated its baseline cost projections to reflect these cost pressures. But it has put in place initiatives to address these cost pressures, including the Early Childhood Early Intervention (ECEI) approach for children aged 0-6 years (section 5, box 4), and the first plan process to reduce variability in the level of support provided to participants (section 6, box 5). As discussed below, while these initiatives appear appropriate, it is too early to tell whether they will be effective at containing costs.

Figure 5 **The NDIA's responses to emerging cost pressures**[a]



[a] The NDIA's two main responses to emerging cost pressures. The NDIA has also initiated several smaller projects to address emerging cost pressures, such as an analysis of reasonable and necessary costs across the lifespan of participants. Box 4 provides details on the Early Childhood Early Intervention approach and box 5 outlines the first plan process. [b] Potential participants continuing to approach the scheme is not a cost pressure that can easily be addressed by the NDIA.

Benefits are already being realised

Realising the benefits of the scheme is critical for the wellbeing of people with disability and for ensuring that the community continues to be willing to pay for the scheme. However, at this early stage, only some of the benefits are being realised.

The NDIS Outcomes Framework and a National Institute of Labour Studies evaluation of the NDIS provide some insights into the scheme's benefits. Both find that the NDIS has:

- increased supports — more hours of support, a wider range of supports and greater access to equipment — than under the previous system
- on average, improved wellbeing of NDIS participants and their families and carers
- given people more choice and control over their supports
- increased social participation for some scheme participants and their carers.

The Commission also received numerous submissions supporting these findings. As one disability advocate said:

> … I have seen the life changes in people with disability who now have the NDIS funding. They are now accessing community, have a good life and have hope for their futures. The burdens are off the family, some aged carers, and there is job creation. Broken wheelchairs are now being replaced and people who never had wheelchairs, now have and can access the community. I now see happy people.

However, not all people with disability report improved outcomes under the NDIS. The National Institute of Labour Studies evaluation found that:

- some people with disability are experiencing poorer outcomes under the NDIS and receiving fewer services than previously. Often these are people who cannot effectively advocate for themselves, particularly people with psychosocial disability, and those who find it difficult to navigate NDIS processes
- many NDIS participants are experiencing difficulties accessing supports (due to lengthy waiting lists for some providers and types of supports, the absence of local providers and concerns about quality). Also, unmet demand is more common for participants living in rural and remote areas and for older participants
- about 15 per cent of participants feel they have less choice and control, while about one quarter of participants are accessing fewer distinct supports. Qualitative data suggests that those who are unable to navigate the NDIA website to find service providers, and those less able to articulate support needs, are less likely to feel that they have more choice and control.

There has also been a significant fall in participant satisfaction with the scheme since the scheme entered the transition phase — participants reporting that they were satisfied or very satisfied fell from an average of 95 per cent to 85 per cent between 2015-16 and 2016-17 (the first three quarters). This could be linked to the speed of the rollout, and changes to the planning process (discussed below).

The remainder of this overview discusses the longer-term issues that affect financial sustainability and highlights where the major risks lie.

5 Scheme eligibility

The eligibility criteria are the main instrument available to influence how many people will be eligible for individualised support through the NDIS. It is important that these criteria are clear, aligned with the objectives of the scheme, and rigorously upheld.

When the Commission designed the national disability insurance scheme, it recommended that the eligibility for the scheme for individualised supports uphold the following principles:

- individuals should have a disability that is or is likely to be permanent, reflecting the irreversible nature of disabilities

- individuals would meet one of the following conditions:
  - have significantly reduced functioning in self-care, communication, mobility or self-management and require significant ongoing support
  - be in an early intervention group, comprising of individuals for whom there is good evidence that the intervention is safe, significantly improves outcomes and is cost effective
- individuals would meet residence and age requirements.

The eligibility criteria for the NDIS are broadly in line with what the Commission recommended in 2011, with two exceptions:

- the inclusion of supports to undertake activities of *learning or social interaction*
- the inclusion of developmental delay in the early intervention criteria (table 3).

Both these criteria allow more people to qualify for individualised supports under the NDIS than the Commission included when costing the scheme.

Adding learning or social interaction — what effect?

The Commission was unable to assess the effect of adding learning or social interaction to the eligibility criteria, because the NDIA does not collect data on which (or how many) of the six activity domains are relevant to each participant when they enter the NDIS (table 3). Speech Pathology Australia, however, said that their members who are NDIS providers are not providing services to children whose *only* disability relates to learning and literacy.

Collecting data at entry on the domains would provide information on the impact of each part of the eligibility criteria on participant numbers (and therefore scheme costs). Such information would also allow for more granular analysis of who is in the scheme and what their needs are likely to be (which could also be useful to the NDIA in its monitoring and forecasting roles). The NDIA should collect this information.

Adding developmental delay — what effect?

The evidence suggests that providing individualised supports for children with developmental delay can improve outcomes for individuals and reduce costs. It is therefore consistent with the early intervention principles of the scheme.

A review undertaken for the Department of Social Services (DSS) estimated that around 11 600 children with developmental delay or global developmental delay would be eligible for support under the scheme at a cost of $155 million each year. While no definitive data are available to test this estimate, trial site data (which may not be reflective of full scheme prevalence rates) suggest higher prevalence rates than the estimate provided to the DSS.

Table 3 **A summary of the NDIS eligibility requirements**

Age requirements	Residence requirements
Aged under 65	• Australian citizen • Permanent resident • Hold a protected special category visa
And meet either:	
Disability requirements	**Early intervention requirements**
Disability attributable to one or more: • intellectual • cognitive • neurological • sensory • physical impairments; or • an impairment attributable to a psychiatric condition; and	• Has one or more identified intellectual, cognitive, neurological, sensory or physical impairments, and likely to be **permanent**; or • Has one or more identified psychiatric conditions, and likely to be **permanent**; or • Is a child who has developmental delay; and
The impairments are, or are likely to be, **permanent**; and	The early intervention support is likely to benefit the person by **reducing the person's future needs** for supports in relation to disability; and
Impairments substantially reduce **functional capacity** or **psychosocial functioning** to undertake one or more of the following activities: • communication • social interaction • learning • mobility • self-care • self-management.	The early intervention support is likely to benefit the person by: • **mitigating or alleviating** the impact of the person's impairment on their functional capacity • **preventing the deterioration** of such functional capacity • **improving** functional capacity • strengthening the **sustainability of informal supports** available to the person, including through building the capacity of the person's carer.

For children to be eligible for individualised supports, they need to have a delay across multiple domains. This suggests that the eligibility criteria set an appropriately high hurdle. However, assessment of the functional capacity of children in the scheme suggests that the entry pathway may not be sufficiently robust, as 40 per cent of children in the scheme do not have any identified deficits compared to the normal range for their age. This points to a problem with eligibility screening, and underscores the importance of rigorous entry and exit pathways in moderating scheme costs. The development of the ECEI pathway for children to enter the scheme seeks to tighten the entry pathway for children aged 0-6 years (box 4).

Box 4 **Early Childhood Early Intervention (ECEI)**

The ECEI approach is designed to be a 'gateway' to the NDIS for children aged 0 to 6 years. It aims to ensure that only those children who meet the eligibility criteria of the NDIS become participants of the scheme. Under the ECEI approach, families meet with an early childhood intervention service provider to discuss the needs of their child. The provider then identifies appropriate supports for the child and family, and whether the supports should be provided through the NDIS or through mainstream services. As the NDIA put it, 'the ECEI approach aims to ensure children are provided with the right level of support at the right time for the right length of time'.

The ECEI approach is also aimed at ensuring early intervention supports are effective and result in the exits expected in the 0-6 years cohort. The NDIA plots a child's progress against development milestones and supports the child to access mainstream supports when NDIS supports are no longer required.

Effective entry and exit pathways?

Effective entry pathways uphold the eligibility criteria of the NDIS and allow only individuals who meet the criteria to qualify for supports. The two entry pathways for people to receive individualised supports under the NDIS are the ECEI pathway for children aged 0-6 years (box 4), and a more general pathway for people aged 7-65 years.

The ECEI approach was put in place in response to the higher than expected number of children entering the scheme in the trials.[2] The approach is designed so that children in the 0-6 years cohort requiring early intervention supports will have their needs met either through the NDIS or by other support systems.

It is too early to gauge the success of the ECEI in upholding the eligibility criteria of the NDIS and to assess its effectiveness in supporting children who are not eligible for individualised supports. However, given that children receiving early intervention supports are one of the largest participant groups in the scheme, it is critical that the NDIA builds an evidence base on early intervention to inform the types of intervention that are most beneficial and should be funded. The NDIA has developed an evaluation and monitoring framework for the ECEI approach.

Streamlined entry for early intervention

The NDIA maintains a list (List D in the latest NDIA operational guidelines) that allows for streamlined entry into early intervention supports for children who have a condition on this list. List D contains about 130 conditions, including Global Developmental Delay.

2 The NDIA is also developing an early intervention approach for the 7-14 years cohort.

Maintaining such a list represents a trade-off. The appeal of such a list is that it places less onus on families to demonstrate eligibility, reduces the administrative burden on the NDIA and provides a degree of certainty for the families of children with these conditions. However, the list can also affect incentives, and can represent an overly-generous entry gateway if set too expansively. A list can also stifle exits from the scheme. If diagnosis forms the basis of early intervention, a child would remain eligible for early intervention supports so long as their condition is present, even if the expected benefits from early intervention have been realised (or are unlikely to be realised).

The Commission is seeking feedback on the advantages and disadvantages of List D, with a view to determining whether it should continue to be a pathway for children to enter the scheme under the early intervention requirements.

Scheme exits

The NDIA has identified lower than expected exit rates as an early cost pressure. At the end of March 2017, while just under 700 participants had exited the scheme, only 10 per cent were people with early intervention plans. The NDIA should address trends in exit rates that appear inconsistent with scheme objectives.

Psychosocial disability and the NDIS

In 2011, the Commission recommended that people with psychosocial disability be supported through the NDIS. This was on the basis that:

- the day-to-day support needs for people with significant and enduring psychiatric disability are often the same as people who have an intellectual disability or an acquired brain injury
- some important parts of the care requirements of people with psychosocial disability — namely community supports — are best met through the NDIS
- providing supports to people with psychosocial disability through the NDIS provides them with the wider benefits of the scheme, including personalisation of supports to meet the needs of the individual, more choice in what supports are provided, when and by who, and greater access to early intervention supports.

These points remain salient, and lend support to people with psychosocial disability being supported through the NDIS. And, while the Commission heard a range of views about whether the NDIS is the 'right' vehicle to provide support to people with psychosocial disability, the majority of submissions to this study were supportive of its inclusion.

Concerns were also raised about the need for permanency under the NDIS Act being incompatible with the recovery models used in supporting people with psychosocial disability. However, the investment approach to the NDIS and the recovery model of mental health are both about building capacity, and appear to be well aligned.

Scheme participant numbers suggest that people with psychosocial disability are able to demonstrate that their condition is, or is likely to be, permanent. At the end of March 2017, about 5000 people with psychosocial disability received individualised supports through the NDIS. Data also indicated that 81 per cent of people with psychosocial disability who lodged an access request to the NDIS were eligible for the scheme.

The Commission does not support changing the eligibility criteria to relax the definition of permanency and how it relates to psychosocial disability.

Estimating the number of participants with psychosocial disability is difficult because a robust and comprehensive database from which to draw is lacking. However, given that a range of estimates have been prepared by a number of stakeholders and agencies, it would be beneficial for the methodology used to be made fully transparent, so that each could be assessed and considered in relation to projections of numbers of participants with psychosocial disability at full scheme.

Concerns about gaps in support for people with psychosocial disability not eligible for the NDIS are discussed in section 7.

6 Supports and plans

Scope of supports

The NDIS is designed to cover specialist disability supports that are 'reasonable and necessary'. This includes supports that help people with disability to:

- pursue their goals and maximise their independence
- live independently and be included in the community as fully participating citizens
- participate in the community and in employment.

The concept of 'reasonable and necessary supports' is not specifically defined in the NDIS Act, nor does it provide direct guidance on how to determine whether a support is a reasonable and necessary support. There is good reason for this — flexibility around what is reasonable and necessary allows participants to exercise choice and control, and to be innovative about supports.

However, what is 'reasonable and necessary' will ultimately be shaped by court and tribunal decisions over time, having regard to the legislation, rules and operational guidelines. Such decisions will affect what supports are funded and scheme costs. This is one policy lever that is outside the control of the NDIA. The Commission is seeking feedback on whether greater legislative clarity is required around whether and how the test of 'reasonable and necessary' should be applied.

About plans and the planning process

The planning process is about matching scheme participants with support packages. It involves conversations between the participant and the NDIA to ascertain, for each participant: their goals and aspirations, their level of function and an appropriate support package. The NDIS Act requires the development of a plan to, where possible, be individualised, directed by the participant, and maximise participant choice and control.

Good planning processes are essential for the long-term sustainability of the NDIS. Poor planning processes can:

- be unreliable and contribute to underutilisation of supports, undermining the predictability of scheme costs and the ability of governments to plan for the future of the scheme
- mean that participants are allocated supports that are not right for them, with the result that the benefits of the NDIS (such as increased quality of life, greater social and economic participation, and reduced need for other or future supports) are not realised
- result in greater variability in plans and outcomes for participants with similar needs, compromising equity within the scheme
- place greater stress on review processes, adding to the workload of planners and the NDIA.

Planning processes were changed in response to trial experience

In July 2016, the NDIA introduced a 'first plan process' for determining participants' support packages (box 5). The first plan process has resulted in more plans being in line with benchmark costs (compared to the trial period).

The move to transition also saw a shift from face to face to phone planning conversations (although face to face meetings can be requested). This was a decision by the NDIA to allow people to enter the scheme as quickly as possible. The decision was based on trial experience which suggested that people want to join the scheme as soon as they can, and want time to think about their goals, supports and how to use them. The NDIA's approach is that the first planning conversation is the start of a lifetime journey and plans can be adjusted and improved over time.

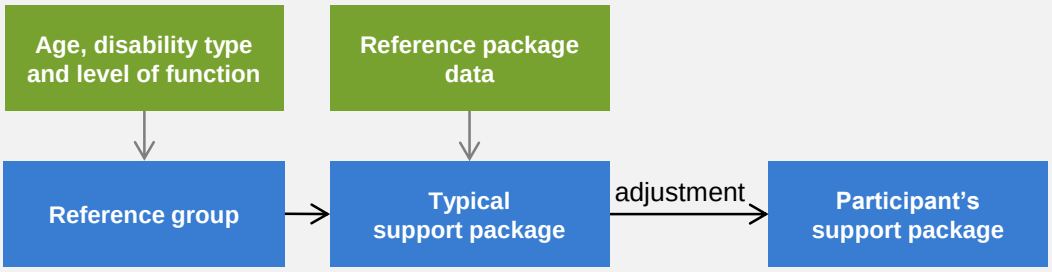
There is a lot of dissatisfaction with phone planning (box 6). The Commission heard (on numerous occasions) that participants had been called with no forewarning of the planning conversation, so the person was not prepared and could not have an advocate present. Others said that they had not known that the conversation they were having with the Agency was a planning conversation until they had received their plan.

A number of participants also said they felt rushed during their planning meetings. As one study participant put it:

> … the transition time pressures appear to have resulted in a reduction in the time available to assist people to resolve their plan; in some cases this is reported to have reduced to a 30 minute phone call. This could not be further removed from the feature of a 'person centred model of care and support' that is meant to distinguish the NDIS from previous approaches.

Box 5 How does the first plan process work in practice?

Participants are first allocated a 'typical support package', based on their reference group (which is determined by their age, disability type and level of function). The typical support package may include funding across the following eight core domains: daily activities; social participation; consumables; transport; home modifications; assistive technology; capacity building; and support coordination.



For each participant, the level of funding is adjusted according to the participant's circumstances. This is done using a questionnaire, which asks the participant about each of the domains, including what supports they already have in place, and whether these are sufficient and sustainable. For example, where it is reasonable that sustainable informal, community or mainstream supports continue to assist the participant, or where the participant believes that other informal, community or mainstream supports may provide a better outcome, funding is adjusted in the participant's support package.

The speed of transition has placed a lot of pressure on the NDIA to finalise plans quickly and phone planning conversations are seen as part of the solution. The NDIA said:

> The current process is designed to balance the need to gather sufficient information for a decision-maker to make a valid decision under the NDIS legislation, with making the process non-intrusive and convenient for the participant.

An individualised approach to planning is a key feature of the NDIS and sufficient time is required to match participants with the supports that are right for them. Phone planning conversations can mean that planners do not 'get the full picture'. For example, the living environment of participants may not be adequately reviewed (which means issues such as accessibility, safety and appropriate assistive technology can be difficult to identify).

Phone planning conversations are not appropriate for some participants, including some participants with particular accessibility requirements, mental illness, cognitive impairment and neurodegenerative diseases or people of culturally and linguistically diverse backgrounds. However, they may be adequate for others, particularly if there has been adequate pre-planning.

Box 6 Dissatisfaction with phone planning

Social Support & Precarious Workforce Research Discussion Group:

> … some participants are not fully aware that the phone conversation occurring with the NDIS staff member is actually their planning process occurring. This confusion is also evident in the NDIS marketing of phone-planning as a 'planning conversation', where the suggestion is you will 'talk-about' the plan whereas the reality is that it is a full and structured assessment and plan procedure.

The Disability Services Commissioner:

> Planners are not providing clear and accessible information about the planning process including when and how planning will take place. A sister of a participant said that someone from NDIA had rang her while she was in the car. They advised that they were 'only collecting answers' and it would 'only take a minute'. Following that conversation, her sister received a plan for approval from the NDIA, with less funds than she had previously received.

Alzheimer's Australia:

> Annie called the Parkinson's 1800 support line as she worried about an over the phone NDIS planning session that had taken place earlier that day. Annie's volume and quality of speech has been impaired due to Parkinson's and she also requires longer to respond to questions. She felt rushed and because her response is delayed she felt that the assessor didn't get a clear indication of her needs. Annie and a Parkinson's Nurse Specialist were able to take the time [to] put information together in order to apply for a review for Annie's plan.

Ethnic Communities' Council of Victoria:

> … anecdotal evidence from advocates and providers in the North Eastern Melbourne Region indicates that some participants are not being adequately informed about the purpose of phone contact by the NDIA or their LAC. These participants are having plans being completed without realising that they are engaging in the process or providing informed consent.

Blind Citizens Australia:

> [Phone planning] severely compromises the ability of people who are blind or vision impaired to demonstrate the difficulties they may face with completing tasks like reading, navigating the environment or household chores.

But the Commission considers that the pre-planning phase of the planning process has not received the attention that it requires and many participants are ill-prepared for planning conversations (which is affecting the quality of plans). The NDIA acknowledges that there has been some dissatisfaction with the way the planning process has been operating and because of the speed of the transition, it was not able to engage LAC partners in time to provide participant and community development during the pre-planning stages (and this has made the first plan process more difficult to implement).

A greater focus on pre-planning should mean that phone planning conversations will be suitable for a larger pool of participants. LACs need to be in place six months in advance in the areas in transition to assist participants with pre-planning. The Commission considers this to be a better (and likely less costly) option than trying to 'fix' plans twelve months after they are first put in place. It will also mean that participants are not only in the scheme, but are also more likely to be exercising choice and control (and this is more likely to induce a provider response).

Participants need to understand the planning process

The planning process has changed a lot since the NDIS commenced in 2013. As with all insurance-based schemes, the tools and processes for handling claims and assessing entitlements are a matter of ongoing refinement. This is necessary to ensure that the insurance scheme remains 'on track' and is viable in the long term. Dynamic processes are also important to allow the scheme to adapt to changing circumstances or incorporate information that becomes available over time.

In light of this, it is important that stakeholders can access accurate and up-to-date information about planning processes. Clear messaging about how and why things are changing is also important to maintain the credibility of evolving planning practices.

At present, the planning process is complex and confusing, and often lacks clarity and transparency. Study participants found it difficult to access information about what assessment tools the NDIA uses (including tools used for measuring level of function), and many were unsure or unaware of how the first plan process operated. In addition, limited information is publicly available to help scheme participants and their families, carers and advocates to navigate the planning system. Scheme participants are often not aware of their rights and options, such as their entitlement to request a face-to-face meeting, or have an advocate present during the planning meeting.

For many scheme participants, pre-planning support can assist them in navigating a confusing and complex system. But demand for pre-planning support services is partly driven by how accessible and complex planning processes are. There is considerable scope for the NDIA to improve transparency and clarity around planning processes. This includes providing clear and up-to-date information about what to expect during the planning conversation, when it will occur, and how the information gathered during that conversation will be used.

Planners need more disability knowledge

Planners' limited disability knowledge is an issue of real concern (box 7). Many advocacy groups said that planners do not have sufficient knowledge of particular disabilities or the impact that particular conditions have on people's lives, and they often did not know what supports would be most effective for the participant's disability. Alzheimer's Australia, for example, reported that a person with Multiple Sclerosis (MS) was asked by the LAC at a planning meeting 'How long will MS last?'

Box 7 Concerns about planners' and LACs' lack of knowledge about disabilities

MND Australia:

> LAC's do not have the expertise to support people with [motor neurone disease]. … They have no understanding of MND and the disability it creates. They attempt to plan via a telephone conversation, when speech and communication can be one of the early losses created by MND.

Alzheimer's Australia:

> Peter, the carer of a woman with younger onset dementia, felt unprepared when he and his wife attended their first NDIS planning session. … The NDIS planner had no understanding of dementia and the needs of people living with dementia and as a result the planning session focused on physical needs and solutions. As a result their first NDIS plan provided funded supports totalling $600 … Feedback from people with progressive neurodegenerative diseases has revealed that Local Area Coordinators (LACs) have also shown insufficient knowledge of their disease, the impact of that condition on their lives, the most effective service interventions and the degenerative and fatal nature of their disease.

Amaze:

> We are also concerned that participants appear to be receiving very inconsistent and at times, misleading advice, from planners and NDIA staff. The NDIA must support planners with clear policy and guidelines to provide consistent advice to participants about the planning process, criteria for supports and how plans may be implemented … Amaze's 2017 survey found: 65% of respondents rated their planner's knowledge and understanding of autism as none to moderate a level (with the remainder rating the planner's knowledge as high). … given 30% of participants identify autism as their primary diagnosis, a high level of ongoing training in autism will be a necessity to developing and maintaining their capacity to reliably develop plans.

New South Wales Government:

> … planner knowledge and capability is highly varied, as is their interpretation of reasonable and necessary supports and understanding of interim working arrangement with mainstream services. Approved supports are less likely to be based on a participant's needs and more on a planner's knowledge of the disability and / or how effectively the participant or their carer advocate for certain supports.

Planners should, at a minimum, have a general understanding about different types of disability. The Commission recommends specialised planning teams for some types of disability, such as psychosocial disability.

An alternative (or complementary) approach would involve leveraging expertise from within the industry, and getting specialist disability organisations or service providers more involved in the planning process. While this could give rise to potential conflicts of interest, these can be managed or mitigated by ensuring that such organisations have an advisory role, with final decision-making powers being exercised by an impartial planner. This approach would also mean that the NDIA would not need to compete with others in an already thin market to recruit planners with specialist qualifications or experience.

7 Boundaries and interfaces — the NDIS and services outside the scheme

People with disability, their families and carers rely on a wide range of services — including mainstream services, specialist disability services and community supports. For the NDIS to work efficiently and effectively, the interface of the scheme with these other services on which people rely must be as seamless as possible.

While the level of funding provided to the NDIS recognised that the aggregate level of funding available to people with disability was inadequate, it is also the case that the NDIS was not expected to fill *all* the service gaps that predated the scheme. The responsibility to provide services to people with disability remains a shared responsibility between all levels of government.

The interface between supports for people with disability will take time to determine at the coalface, but until those interfaces and the associated boundaries are settled it is important that governments do not withdraw from services too quickly, as any gaps that emerge will place added burdens on people with disability and their families. As the interface issues become more defined, it is essential to understand and manage the incentives that are set up where boundaries exist. Most critically, it is important that people with disability do not see the NDIS as an oasis of support, surrounded by a desert, where little or nothing is available. Should such a dynamic develop, the financial pressures on the NDIS could be unsustainable, particularly if people feel the need to test their ability to qualify for the scheme, or remain in the scheme for as long as possible, for fear of not gaining access again should the need arise.

This contrasts to the more sustainable situation where supports within the NDIS are well tailored, so that those with high needs will receive substantially more than those with low needs. The gap between participants with the lowest needs, and hence with the lowest level of supports, and those outside the scheme, should be such that there is not a large difference between the two. In such a system, people will not have an incentive to enter the scheme as their needs will be adequately met outside it, and those inside the scheme who are assisted sufficiently to no longer need individualised supports will have little incentive to stay in the scheme longer than necessary.

Clearly there is much detail yet to be worked through. Nevertheless, establishing clear and robust boundaries (and appropriately tailored supports) is an essential element to the fiscal sustainability of the NDIS, and for the surrounding network of supports. When people are accessing the services they need, the system as a whole should be providing supports at the most efficient and cost effective level.

Linking people to the right services

The Commission's 2011 report recommended a bridging and capacity building service for any person with, or affected by, a disability. The ILC program is a key component of the NDIS and has been set up to provide information, linkages and referrals to people with disability, their families and carers, with the appropriate community and mainstream supports (box 8). The focus of ILC is on community inclusion.

ILC will be important for scheme sustainability because it is expected to reduce reliance on NDIS funded support and costs over time, by reducing the demand for individualised packages and the need for supports within funded packages, as well as making supports more effective at helping people achieve their goals. Therefore, it is important that ILC is adequately funded.

ILC is still to be implemented and the funding for ILC will gradually increase over transition (from $33 million in 2016-17 to $131 million in 2019-20). The timing of ILC funding (starting with a small budget that increases over time) has prevented the NDIA investing in ILC activities and the rollout of initiatives that would allow the infrastructure of a national ILC framework. Withdrawal of existing ILC-type activities by State and Territory Governments may also have affected the supports available.

Box 8 What role for ILC?

In July 2015, COAG members endorsed the ILC Policy Framework. The framework describes five streams to achieve the objectives of ILC.

- Information, Linkages and Referrals — connect people with disability, their families and carers with appropriate disability, community and mainstream supports.
- Capacity building for mainstream services — ensure people with disability connect with and access mainstream supports.
- Community awareness and capacity building — support organisations (such as not-for-profit organisations, local councils, businesses) and communities to be inclusive of people with disability, and understand the needs of families and carers.
- Individual capacity building — foster the principle of choice and control, improving outcomes for people with disability, their families and carers.
- Local Area Coordination (LAC) — the development of relationships between the NDIS; people with disability; their families and carers; and the local community. The LAC's role connects across each of the streams of ILC, which include information and linkages and individual capacity building, as well as working with mainstream services and communities to better enable access and participation. Twenty per cent of LACs annual funding is for ILC activities.

It is a false economy to have too few resources for ILC activities in the transition period when it is critical to have structures in place to ensure that people eligible for the NDIS can access the scheme, and that those who are not eligible can access supports and services outside the NDIS.

Although directing additional funds to ILC in transition could crowd out state and territory 'ILC-like' activities, the grants process by which organisations receive ILC funding means that these activities can be targeted to where they are most needed. There may also be a risk of duplicating services, but the risk of service gaps appears much more likely under current arrangements, particularly as determining precisely what ILC should cover is unclear at the operational level.

It is the Commission's view that ILC funding should be increased to the full scheme amount for each year during the transition to allow for an accelerated national rollout of ILC activities. The additional funding should come from the NDIA's program delivery budget.

The effectiveness of the ILC program in improving the outcomes for people with disability and its impact on the sustainability of the NDIS should be reviewed as part of the 2023 review of NDIS costs when data on ILC activities is available. In the interim, there should be much greater transparency about the specific programs that are being funded as ILC activities by each jurisdiction over the transition and at full scheme. The ILC budget should be maintained at a minimum of the full scheme amount each year until results from this review are available.

Interface with mainstream services is not clear at an operational level

The Australian Government has entered into Bilateral Agreements with State and Territory Governments to delineate the types of services to be provided and funded by the NDIS and mainstream services. Schedule 1 of the *National Disability Insurance Scheme Rules (Supports for Participants) 2013* (Cwlth) sets out the rules to determine whether the scheme or another system is more appropriate to fund the specific supports for individuals.

COAG has accountability for the NDIS and the *National Disability Strategy*, and through its Disability Reform Council (DRC), receives reports and advice on progress and risks. While the principles agreed to by COAG on the boundaries between the NDIS and mainstream services are relatively clear, greater clarity is required at the operational level.

The boundary issues are yet to be tested. However, the NDIA reports some instances of possible cost-shifting, scope creep and service gaps, including:

- providers trying to extend the amount of therapeutic (health) interventions through use of NDIS funding
- reports that mainstream services are refusing entry to people who are likely to be eligible for the NDIS
- issues around a lack of accessible public transport options, particularly in regional, rural and remote areas, which means NDIS participants seek transport funding through the NDIS despite having the capacity to travel independently.

The current arrangements under the *National Disability Strategy* should be strengthened to include more detail around boundaries (based on challenges faced when seeking to operationalise boundaries), and greater accountability. This could be achieved through review points of National Agreements and National Partnership Agreements under the Federal Financial Relations Intergovernmental Agreements by setting out specific commitments, key performance targets and outcomes. As the DSS said:

> Translating the National Disability Strategy into tangible results for people with disability, their families and carers is a major factor in successful implementation of the NDIS.

Adding a standing item to the agenda of each COAG council that is responsible for any services which interface with the NDIS to discuss any gaps in service provision would also help build clarity around what services governments will provide and ensure ongoing monitoring and solutions for potential future gaps.

Concerns that some people with disability may be left without services

Many are concerned that, as disability support programs are rolled into the NDIS, people using these services (including those not eligible for the NDIS) may no longer receive continuity in support. This is a key risk to the financial sustainability of the NDIS — and one that the NDIA has little control over.

Mental health services are an area of particular concern. The National Mental Health Commission's report on Mental Health Programs and Services estimated that about 700 000 Australians experience a severe mental illness in any one year. However, according to the NDIA, only around 64 000 people with psychosocial disability are expected to be eligible for individual packages in the NDIS.

Clearly, there needs to be support for people with mental health illnesses outside of the scheme — a responsibility that remains (largely) with State and Territory Governments. However, governments have been withdrawing their funding for a number of mental health support programs in their jurisdictions and using this funding to offset part of their contribution to the NDIS. At this stage, it is unclear what supports will be available for people with a mental illness who do not meet the NDIS eligibility criteria and this should be clarified as a matter of urgency.

The implications of this are significant. Not only is this uncertainty distressing for those with mental illness, any gap in support would place an additional call on the generosity of informal support. Gaps could place another pressure on the financial sustainability of the NDIS should it encourage scope creep, or force those who are unlikely to meet the eligibility criteria to test their access for fear of having few supports should they not qualify for the scheme. Mental health and psychosocial disability have been made a key priority of the DRC, but more clarity is required.

While the Australian and State and Territory Governments have agreed to provide continuity of support for disability services outside the NDIS, in practice there is confusion

and uncertainty about what services will continue to be provided and/or funded. Governments need to be clearer about how they will approach continuity of care, and in particular about what disability services they will continue to provide for people who are not eligible for the NDIS.

Gaps in disability services need to be quickly identified (possibly with the assistance of ILC and LACs) and managed, to ensure the sustainability of the overall scheme. The NDIA should report, as part of the quarterly COAG DRC report, on boundary issues. There should also be mandatory public reporting by all governments on the number of people covered by disability programs pre- and post-NDIS, and it should cover all disability services — that is, those within and outside the responsibility of the NDIS.

The National Injury Insurance Scheme

In 2011, the Commission recommended a National Injury Insurance Scheme (NIIS) that would operate in parallel to the NDIS. The scheme was to cover the care costs of people who acquired severe disabilities through catastrophic accidents. The Commission also recommended that the NIIS be in full operation before the full rollout of the NDIS.

The NIIS is only partially implemented, with the motor vehicle and workplace accident streams effectively operating, but the medical and general accident streams still to be implemented. This means that some people who would be expected to have their needs met through NIIS will instead need to have them met by the NDIS.

In principle, states and territories should bear the consequential NDIS costs if the NIIS remains only partially implemented for an extended period. The Commission is seeking feedback on a mechanism to ensure that the States and Territories bear the cost of NDIS participants who were intended to be covered by the NIIS.

8 Market readiness

The market-based approach of the NDIS means that there will be significant changes in the way that supports are demanded by and provided to, participants. This disruption of the disability services market is designed to maximise the choice and control of participants, while also providing incentives to providers to efficiently and effectively deliver the supports that participants want and need (table 4).

While efficiencies are likely to be driven by the scheme, the increase in funding and considerable unmet need in the disability support sector means that the number of workers and providers will need to grow quickly over the transition period. For example, the NDIS workforce will need to more than double from 2014-15 to 2019-20, and the number of NDIS providers will need to increase by between four- and ten-fold.

Table 4 **Intended effects of the NDIS in the disability services market**

Features of Disability Services Market pre-NDIS	*Features of a Mature Disability Services Market*
• Largely 'block funded', with funding provided in advance of service delivery and little freedom to innovate.[a]	• Predominantly fee-for-service paid on invoice. In principle, prices for services are set by the competitive market, and there is innovation by service providers seeking to attract and retain consumers.
• Services often limited and priorities for families in immediate crisis, rather than for early intervention. Consumers have little control over the services they receive and limited choice of provider.	• Funding to meet the reasonable and necessary support needs of each NDIS participant. Consumers have choice and control regarding the services received and providers used.
• The primary relationship is between the service provider and the funder, with consumers often described as 'passive' recipients of services.	• The primary relationship is between the consumer and service provider. Intermediaries and access to information about provider quality, performance and pricing help consumers exercise choice.
• Providers are subject to various statutory provisions (at all levels of government) regarding quality. The system is complex, difficult to navigate and not well integrated nationally.	• Compliance with a national quality framework. A nationally consistent and navigable system.
• High transaction costs for both consumers and service providers.	• Lower transaction costs for consumers and service providers. There is adequate depth and resilience in the market to underpin financial sustainability.

[a] Block funding refers to the process where governments purchase a 'block' of services from a provider, which is to be delivered to clients who meet certain criteria, or are referred to those providers as part of an individualised plan.

As the success of the NDIS relies on the timely provision of the right supports to participants, the readiness of the market will affect the trend in costs during transition and beyond. The following sections look at the readiness of disability support providers, the workforce, and participants.

Providers face challenges to be ready for the NDIS

To meet the needs of NDIS participants, there needs to be an increase in the quantity, quality, range and responsiveness of disability supports supplied. But as noted by House With No Steps, the disability support market is not a typical market.

> The disability support 'market' is not a normal or 'perfect' market in classical economic terms. It is about providing a range of customised supports, human and technological, paid and unpaid, to meet complex and often poorly-defined human needs and wants. Outcomes are often hard to measure and report. Information is unbalanced. Regional, rural and remote markets are 'thin'. The 'buyers' of services and their local situations are diverse and heterogeneous, not homogeneous. Many are vulnerable.

In making the transition to a market-based system for disability support services, providers are facing the prospect of workforce shortages and coming to grips with operating in a

market that will, for some time, be characterised by price caps. The best ways to service thin markets will also need to be considered in the new environment.

Prices are important for market development and participant outcomes

In a mature market, the choice and control that participants exercise will increasingly drive the price of disability supports. In turn, these prices will drive providers to supply the supports that participants most value, and encourage competition and innovation among providers to efficiently deliver those supports. Allowing the market to determine the price of supports is an important tenet of the NDIS, as it will contribute to both participant outcomes and the financial sustainability of the scheme.

However, prices are currently regulated (box 9). The NDIA currently sets maximum prices ('price caps') for many of the supports provided by NDIA-registered providers to:

- ensure value for money for participants — as the price of supports may be bid up too quickly before the sector grows sufficiently to meet the increased demand
- encourage the market supply of disability supports.

Box 9 Why regulate the price of disability supports?

Governments have historically regulated the price of human services, including disability care and support services, on the grounds of equity and efficiency. Without appropriate price regulation, the provision and use of disability services may be below socially optimal levels for a number of reasons, including abuse of market power arising from a lack of competition.

The simplest example is that there may be too few providers in a market for there to be competition. This is a real risk in the market for disability supports. For example, early data indicate a market concentration of more than 80 per cent in some disability service sub-markets. If prices are not regulated, this may result in limited access to services for some disadvantaged groups over the transition period.

This was recognised by the Commission in 2011, who recommended that an early — but temporary — task for the NDIA was to set efficient prices to allow providers to recover the costs of service provision (including adequate returns for capital investment), and in turn, ensure the supply of disability supports. But price regulation should not persist unnecessarily, have excessive scope, nor shape the market — such as by benefiting some providers or participants over others.

In practice, the NDIA must balance these two objectives. Setting prices too high may induce greater supply in the market, but reduce the purchasing power of participants. Setting prices too low may ensure lower costs, but may lead to shortages of particular supports. Striking the right balance is difficult.

Some existing providers — who would benefit from an increase in price caps — argued that some price caps are too low to provide quality supports. In turn, the NDIA stated that existing providers — many of whom relied on block funding previously — may be finding

it difficult to adjust to the fee-for-service model. Given that the NDIA's most recent price review has only just concluded (with new prices to take effect on 1 July 2017), the Commission has made no findings or recommendations about the adequacy of those prices.

However, there is a potential conflict of interest with the NDIA setting prices and also being responsible for the financial sustainability of the scheme. This is a structural issue in the design of the scheme that needs to be addressed, as the mere perception of a conflict is sufficient to disrupt the transition to price deregulation.

Mindful of the immediate and significant challenges being managed by the NDIA, the Commission proposes moving towards the deregulation of prices in three stages. The first stage is to immediately introduce an independent price monitor with responsibilities including to:

- examine how the market is responding to prices set by the NDIA
- review the NDIA's price caps based on the available evidence, including comparing NDIA's price caps to other care sectors (such as aged care)
- report publicly on its assessment of the NDIA's price controls with regard to market development and participant outcomes.

The independent price monitor would improve transparency around how price caps are set, and in turn, lead to greater accountability and thereby confidence to participants, providers and the wider community. It should be put in place immediately to serve as a 'check and balance' on the NDIA's pricing over the crucial transition period.

The second stage is to shift the NDIA's price-setting powers to a regulator that is an independent statutory authority — an approach consistent with the evolution of other markets for consumer-directed care, such as the aged care sector. Such a move would allow the NDIA to focus on its core responsibilities of delivering and administering the NDIS, remove the potential conflict of interest, and provide ongoing independence and transparency of price regulation.

The body tasked with price regulation (including the NDIA while it remains the price regulator) should, among other things:

- collect data and publicly report on providers' characteristics and costs
- communicate with disability support providers, participants and the NDIA to transparently set prices at regular intervals, with sufficient time for providers to phase in price changes
- periodically review its price model for transitional and efficient prices in a transparent and comprehensive manner
- send more granular and targeted price signals — that is, provide prices by supports at the state and territory level, with an expectation that price signals could be set at a more disaggregated regional level where possible

- assess and recommend — on the basis of transparent consultation and evidence — when prices for particular NDIS supports in each region should be deregulated, and evaluate whether there remains a need for price controls. To enable efficiencies to be driven by the market wherever possible, the price regulator should presume that it is appropriate for prices to be deregulated — that is, to only have price controls when there is clear evidence that unregulated prices are likely to lead to inflation that would harm participants.

At this time, the Commission envisions that the independent price monitor would be best placed to take over these pricing powers, as it would have developed the knowledge and expertise necessary to understand the disability support market.

The third and final stage of deregulation occurs when the price of a given disability support has been deregulated, but is still subject to subsequent monitoring. The independent price monitor would maintain an ongoing watch on pricing, collect data, and publicly report on emerging market issues that affect the purchasing power of scheme participants.

A key question is when the NDIA's pricing powers should be transferred to an independent price regulator. There appears to be broad consensus among many (including the NDIA, the DSS and the Australian National Audit Office) that price controls are likely to be needed for the foreseeable future. Given the potential conflict of interest that the NDIA faces in setting prices, the need for price regulation to persist over coming years, and the imminent significant increase in participants, the Commission's view is that the price regulation powers should be transferred to the independent body by 1 July 2019.

Thin markets need more attention

When creating a new market for disability supports, there is a risk that, in some areas, or for some types of supports, the market (the number of providers or participants) will be too small to support the competitive provision of services ('thin market'). Thin markets are not new — they have been, and will continue to be, a persistent feature of the disability sector, even under the NDIS.

In the absence of government intervention, there may be greater shortages, less competition, and poorer outcomes for participants in thin markets. Participants at most risk are those who:

- live in outer regional, remote or very remote areas
- have complex, specialised or high intensity needs, or very challenging behaviours
- are from culturally and linguistically diverse backgrounds
- are Aboriginal and Torres Strait Islander Australians
- have an acute and immediate need (crisis care and accommodation).

A more considered and timely approach is needed to address access issues in thin markets. More flexible funding, service delivery and other measures tailored to the specific circumstances are needed. Block-funding may continue to play a role, as well as provider of last resort arrangements. Regardless of the approach chosen, there is a need for: transparent reporting and evaluation of thin market arrangements; strong market stewardship; and collaboration between the Commonwealth and the State and Territory Governments.

The Commission is seeking feedback on when particular measures should be used to provide services in thin markets, when provider of last resort arrangements should be used, and any other information on ways to address thin markets.

The workforce is not growing fast enough

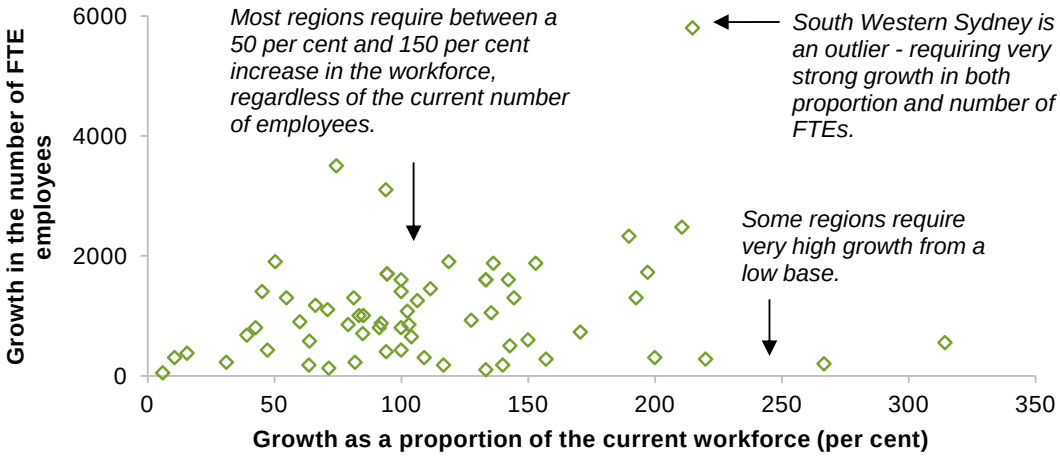
As the NDIS provides more individualised supports for people with disability, the workforce needed to provide those supports will not only need to increase, but also become more diverse. While precise estimates of the size of the necessary workforce differ, there is broad consensus that the number of full-time equivalent positions will need to roughly double over the three year transition period. At a more local level, some regions will need to expand their workforce only marginally, while others will need to more than double (figure 6).

Three policy changes are recommended to mitigate the potential workforce shortage over the short term:

- Meeting the desires of many existing workers — who are more qualified and experienced, and usually work part-time — to work additional hours. While in some cases this may not expand the *effective* workforce (especially given that many participants need care at particular hours of the day), this approach will provide more scope for 'on-the-job' training and mentoring of new staff to expand the overall workforce more quickly.
- Temporarily relaxing the restrictions on NDIA payments to informal carers to encourage them to provide more care over the transition period. This involves removing the restriction that paid informal carers must not live at the same residence as the participant, which is an obstacle to providing care for those in rural and remote areas. Such payments will need to be monitored closely, and their scope reduced as the workforce develops.
- Allowing for skilled migration where residual shortages remain persistent — especially in the case where allied health professionals may be lacking in particular regions. It remains to be seen how recently announced changes to skilled migration visas will affect labour supply for the NDIS.

Figure 6 **Variation in growth required in different regions[a]**

Each dot represents the growth in the amount of full-time equivalent (FTE) employees needed relative to the current situation, both in terms of the number and proportion, between 2015-16 and 2019-20.



[a] The NDIA's market position statements provide 'low and high' estimates for the number of FTE disability workers at present and what will be needed in the future. To derive these estimates for growth, the midpoints of each range are used. No data available for Western Australia. Regions are areas consisting of several local government areas.

Building the workforce is a long-term exercise

While these measures will help to address workforce shortages in the transition period, more attention also needs to be paid to the longer-term development of the workforce.

The responsibility for workforce development is currently shared jointly between the DSS and the NDIA — with the former having 'oversight' of workforce development and the NDIA allocated the task of 'market steward'. The COAG DRC also plays a role in workforce development issues, along with the relevant State and Territory Government departments.

The fragmented landscape of roles and responsibilities is understandable given the breadth and reach of the scheme, and the speed of implementation. The risk is that a fragmented workforce policy may lead to duplication or unnecessary programs at a time when the scheme can least afford it.

The Commission considers that a 'big tent' approach to workforce development remains appropriate, but that the roles and responsibilities of different parties should be clarified further and made public.

- State and Territory governments should have more responsibility for workforce development issues over the transition period, as they have the best experience of

where there has been historically unmet need and which approaches may be best suited to solve such issues in particular jurisdictions.

- The Australian Government should retain oversight of the scheme and focus on areas such as tertiary education and immigration, and how increased demand affects and interacts with other caring sectors, in particular aged care.
- The NDIA is best placed to provide more information to Australian Governments in the form of actuarial and scheme data collected to provide more granular detail on where supply gaps are emerging, or likely to emerge.
- Providers should also have a means to have a greater say in emerging workforce policy issues, such as where the incentives of the scheme may interact with other laws and regulations, like minimum standards, conditions of State and Commonwealth awards, and training and development.

Over the long term, the workforce development responsibilities of State and Territory Governments will diminish as the NDIS fully rolls out and supplants their existing disability support programs. However, State and Territory Governments should remain 'in the tent' when it comes to workforce policymaking given the interaction between the NDIS and other mainstream services.

Building the evidence base is also important

Existing data on the size and scope of disability care workers and the organisations they are employed by are poor, and not commensurate with the importance of the NDIS. This was acknowledged by many study participants, including the DSS (the agency currently tasked with market development oversight), who said that 'a significant limitation to assessing the NDIS market readiness is the availability of market and workforce data'.

Given the size of the scheme, and its importance to participants, the NDIS needs an evidence base about the providers and workforce who deliver supports. To remedy this deficiency, the Australian Government should fund the collection of more fit-for-purpose data by the Australian Bureau of Statistics and the university sector.

Participants need help to make the most of the NDIS

The NDIS is about giving participants more choice and control over their supports. While some participants will be ready to manage and work with the NDIS to implement their plans, others will be less so, and may find it difficult to get the most out of the scheme. This in turn will reduce the overall benefits and financial sustainability of the scheme.

How ready participants are to make the most of their plan will depend on a number of factors, including: an individual's capacity; their network of informal carers and peers; the assistance provided under the NDIS; how ready the market is to provide supports; and the

complexity of the scheme. As participants spend more time in the NDIS, there will also be some degree of 'learning by doing'.

However, some scheme participants are finding the NDIS hard to understand and interact with, particularly because the scheme is a new way of allocating and supplying disability supports. Some transitional issues are also making it harder for participants.

The NDIS provides some assistance to participants to implement their plans, including through support coordination (the key means to bolster the readiness of participants with complex needs). The Commission is seeking feedback on possible improvements to support coordination and complementary actions that may make support coordination more efficient.

Other groups can also help participants navigate the NDIS and access the supports that they need, such as:

- peer support groups and disability support organisations, who can provide participants and their families with information on how best to find and secure disability supports
- advocacy groups, who may be able to help participants find supports. They can also provide systemic feedback to the NDIA and Governments about the difficulties that participants may face in accessing supports within their plans.
- intermediaries, who can provide tailored supports to participants, including helping to pay providers and hiring workers.

Each of these groups play an important role in helping participants and their families to be ready for the NDIS. Intermediaries, in particular, can assist those who may struggle to deal with the administrative burden of managing their own affairs (while allowing participants to retain choice and control), and reduce scheme costs by aggregating participants' purchases of common supports. The Commission is seeking feedback on the role of intermediaries and disability support organisations within the NDIS.

While finding ways to bolster readiness is important, a complementary approach is to reduce the complexity of the scheme. One way is for the NDIA to implement its proposed eMarketPlace — an online platform that, among other things, is designed to provide participants with timely information on the number, quality and past performance of providers. This would make it easier for participants to find the supports that they need at a time when many are finding it difficult to identify and engage with providers.

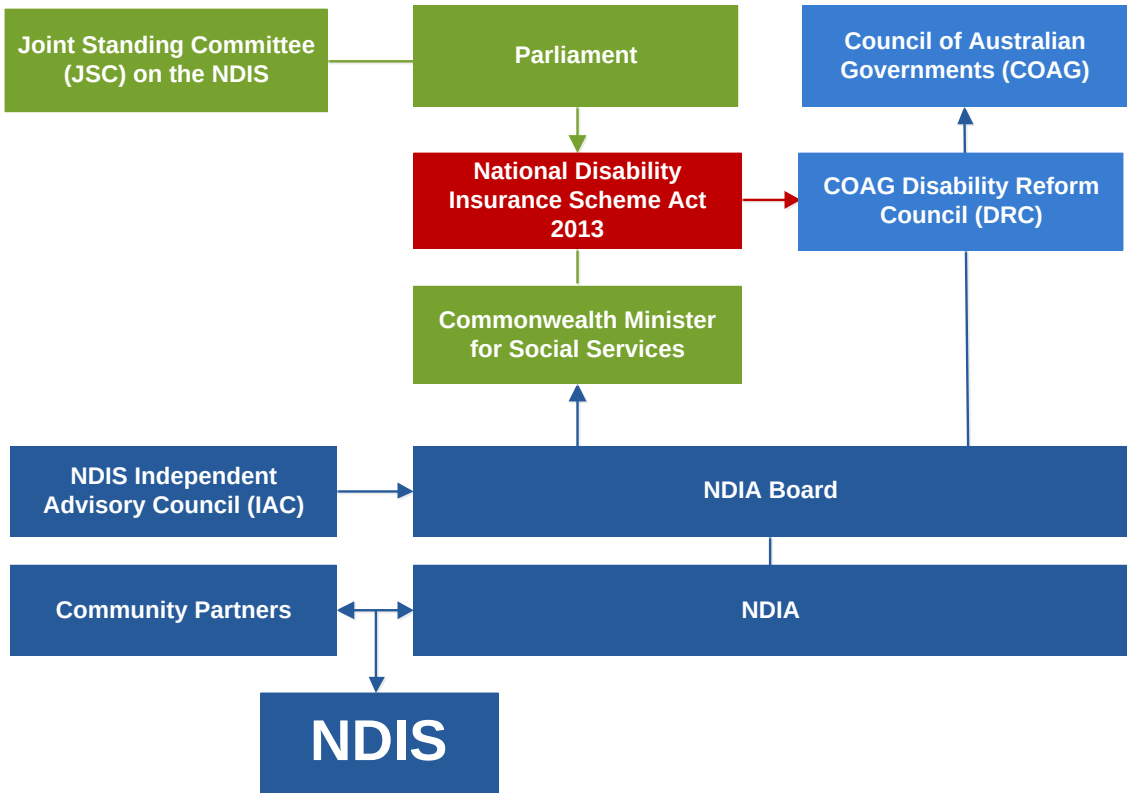
9 Governance

The governance arrangements for the NDIS are complex and reflect the shared responsibility of the scheme between the Australian and State and Territory Governments (figure 7). While the NDIS is administered by an Australian Government Authority (the NDIA) under Commonwealth legislation and under the direction of an Australian

Government Minister, it is designed and funded by the Australian, State and Territory Governments.

The NDIA is governed by a Board, which is appointed by the Minister for Social Services in consultation with State and Territory Governments. The Board is responsible for managing risk and setting the strategic direction of the NDIA. It is also responsible for monitoring and reporting on the performance of the Agency. The NDIA Board was expanded from 1 January 2017 by the Australian Government with the aim to ensure it has the disability service, financial management, corporate governance and insurance-based expertise needed to guide it through its critical three year expansion to 2019-20.

Figure 7 **Summary of NDIS governance arrangements**



In 2011, the Commission recommended a single national scheme, and a single national agency, to provide disability care and support. All states and territories, except Western Australia, joined the national scheme. In 2017, the Australian Government and Western Australian Government signed a bilateral agreement for the implementation of the WA NDIS. Under the agreement, the WA NDIS (intended to be consistent with the NDIS) will be administered by the Western Australian Government, not the NDIA. The Commission considers Western Australia should be in the national NDIS. That said, given the concerns about the transition timetable, Western Australia could delay joining the national scheme until after 2019-20.

Lack of transparency and clarity

Clear and transparent governance arrangements for the NDIS are crucial, especially given the scale and complexity of this reform. Effective governance is also essential for ensuring accountability and trust in the scheme.

The high-level governance arrangements generally provide a strong foundation for the development of the NDIS, including in relation to managing scheme costs and sustainability, but they lack clarity and transparency in some key areas. This includes, for example, confusion over the role of LACs, how the NDIS interfaces with mainstream services, the continuity of care arrangements of State and Territory Governments, and the planning process.

It is important that governments and the NDIA work to strengthen the clarity and transparency of governance arrangements and processes. The Commission has made recommendations with this aim.

Australian Government responsibility for NDIS

In 2011, the Commission recommended that the Australian Government Treasurer should be responsible for the NDIS because of the proposed commercial focus of the NDIA, and the need to ensure strong cost controls, insurance characteristics, long-run sustainability and appropriate management of funds. The Commission also envisaged other ministers, such as the Minister for Social Services, playing a prominent role in disability policy.

However, primary responsibility for the NDIS was given to the Minister for Social Services. While the Commission does not recommend a change to the current arrangements (given that stability is important amidst the pace and extent of reform), it is important that the governance supporting the NDIS is akin to that of an insurance scheme and it is not managed as a welfare program.

NDIS rules

Under the current governance arrangements, the states and territories play a significant role in setting NDIS policy. For example, while the Minister for Social Services is responsible for creating NDIS Rules, in many cases these rules require unanimous agreement from the Australian Government and each host jurisdiction.

There have been cases where NDIS rules have taken considerable time to implement, including the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016* (Cwlth), which is reported to have taken at least eight months. This is a significant period of time in a transition period of three years.

The benefits of requiring agreement from all jurisdictions to implement many NDIS rules needs to be balanced against the need for the NDIS to be agile and able to adapt to emerging risks, especially during the transition, to ensure the financial sustainability of the scheme. The requirement for unanimous agreement from the Australian Government and all host jurisdictions for changes to some rules should be relaxed. There is also a need to align the governance and risk-sharing arrangements (discussed below).

Review processes

There are review processes both internal and external to the NDIA. Concerns were raised about the review processes, including that: there is confusion about the distinction between a plan review and a review of a decision; the information provided about the review processes is inadequate and the review processes are not accessible; and the time taken for reviews can vary drastically and can be significant.

The NDIA and governments are taking steps to improve review processes. However, publicly reporting on reviews, including on the numbers of reviews, review timeframes, outcomes of reviews, and participant satisfaction with the review process, would improve clarity, transparency and accountability around the effectiveness of the review process.

Review processes can also influence costs, both by the number of internal reviews undertaken and external reviews resulting in changes to eligibility or supports provided. For internal reviews, it is important that issues with the planning process that are resulting in increased numbers of plan reviews are addressed. The NDIA should adopt a process for amending or adjusting plans without triggering a full plan review to reduce costs and time delays associated with plan reviews.

For external reviews, it is essential that where such reviews lead to significant impacts on scheme sustainability that mechanisms are available to swiftly respond. The Commission is seeking more information on what is required in this regard.

Monitoring the performance of the NDIS

Performance reporting is important for ensuring outcomes are realised and that there is accountability when they are not. It is also an important component of the insurance approach. Effective performance reporting involves timely and transparent reporting of output and outcome indicators that measure performance against the objectives of the scheme.

The performance of the NDIS is currently monitored and reported through a number of mechanisms and reports, the main one being the *Integrated National Disability Insurance Scheme Performance Reporting Framework*. This framework includes the measures and indicators of scheme performance that the NDIA is required to report against to the COAG DRC and information the NDIA is required to provide to jurisdictions.

While the NDIA is still developing its performance reporting (which makes it too early to determine whether the performance reporting is sufficient to shed light on scheme objectives), the Commission has identified some gaps in the framework and the performance reporting against this framework. There is limited reporting against the outcomes indicators. And, there are few indicators for mainstream services, ILC and LACs. Given the importance of understanding the interaction between the NDIS and mainstream services, and the critical role that ILC and LACs play in the scheme, data on these activities should be an important component of reporting on the NDIS performance.

The performance reporting framework also does not have a strong enough focus on reporting on quality, including the quality of participants' plans. Over time, as reporting on outcomes under the reporting framework develops, evidence of good outcomes will be evidence of good quality plans, processes and experiences. However, it could be many years until this outcomes reporting is of a sufficient standard. Until then, reporting on quality is needed.

10 Funding

To ensure that the integrity of the NDIS' objectives are maintained, the scheme needs to be funded so that it operates in a way that is consistent with an insurance scheme, rather than a welfare program. It is also important that the way the funding mechanisms are designed create good incentives for appropriate allocation of responsibility between the Australian and State and Territory Governments to act in the long-term best interests of Australians with disability requiring services provided by the NDIS, and by mainstream and other disability services.

In 2011, the Commission recommended that the Australian Government fully fund the NDIS from general revenue (because of an absence of reliable growth in taxes at the State and Territory level). However, the scheme has been implemented with funding from Australian, State and Territory Governments governed by a range of Bilateral Agreements that are to be revisited every five years.

Escalation parameters

People covered by insurance schemes are generally required to contribute premiums in exchange for having their risk covered. For the NDIS, the Australian and State and Territory Governments make these contributions using taxation revenue.

At full scheme, the State and Territory Governments will contribute a combined $10.3 billion each year to the NDIS (the transition period has separate funding arrangements). The current Bilateral Agreements between the Australian Government and the States and Territory Governments require that these contributions increase by

3.5 per cent each year (the 'escalation parameters') until 2023, subject to the outcomes from this study.

The current escalation parameters are based on the long-term annual projections of the consumer price index of 2.5 per cent and a net population growth rate of 1 per cent. If the objective of the escalation parameters is to maintain the real per capita contributions to the NDIS from the States and Territories, they should be based on the best available estimates of inflation and population growth for the period of the agreement, at the time of making the agreement. The 3.5 per cent currently specified in Bilateral Agreements is at the lower bound of a range that would be expected to keep real per capita contributions from the states and territories constant over time.

However, if scheme costs were to rise faster than the current escalation parameters (for example, because of greater than expected increases in wages or prevalence rates of disability), the proportion of funding by the Australian Government would increase relative to that of the states and territories over time (in the absence of any other mechanisms being applied).

An alternative way to set escalation parameters would be to explicitly link them to scheme costs so that the proportion of funding allocated to the Australian Government and the State and Territory Governments is maintained over time. The Commission seeks further views on the appropriate role of escalation parameters.

Flexibility of funding

For the NDIS to operate as an insurance scheme, the NDIA needs to have the capacity to manage the lifetime risk of participant costs — for example, by making large upfront investments to yield future cost savings. This requires more funding flexibility than is allowed under the existing 'pay as you go' approach (which effectively operates on a cash reimbursement basis, much like a welfare program).

The NDIA will have a capped operational budget of 7 per cent of total package costs each year at full scheme. While acknowledging the need to constrain administrative expenditure, the Commission considers that a target range of 7 to 10 per cent of package costs would be more appropriate given the insurance approach, as constraining the operating budget within a particular year could undermine the objectives of the scheme.

The NDIA called for increased flexibility around the use of funding currently exclusively allocated to program delivery to better manage risks in accordance with insurance principles. However, the Commission's preferred option, in the longer-term, is to provide the NDIA with a pool of reserves (as recommended by the Commission in 2011). A pool of reserves would enable the NDIA to operate the scheme more like an insurance scheme, which could facilitate a cultural and operational shift within the Agency. It could also result in improved lifetime outcomes for participants and provide assurance to the community that the scheme is insulated (to some extent) from the vagaries of the budget

cycle. The Commission is seeking feedback on how this could be achieved, and what level of reserves would be required.

Creating the right incentives

The allocation of funding responsibility between the Australian and State and Territory Governments needs to be designed to create the right incentives. Importantly, funding cost overruns should be based on good risk management principles — that is, risks should be allocated based on who is best able to manage them. Under the funding arrangements during the transition, the Australian Government is responsible for all cost overruns of the NDIS, but there are a number of potential cost drivers that are in the control of the State and Territory Governments. For example:

- State and Territory Governments' funding and management of mainstream services can impact on scheme costs
- State and Territory Governments provide the majority of 'in-kind' contributions, which can drive up scheme costs and limit participant choice
- State and Territory Governments have a key governance role in the scheme — unanimous support is needed to change the NDIA Board or many of the NDIS Rules, or to direct the NDIA to take specific action, which gives them leverage over cost mitigation tools.

This creates a disconnect between the Australian Government's ability to control costs and the liability for cost overruns. There are two options available to address this at full scheme.

- The responsibility for funding cost overruns could be reallocated between the Australian and State and Territory Governments based on their ability to manage cost overruns. Determining what these should be is not straightforward (allocations of between 25 and 50 per cent of the cost overruns to the State and Territory Governments were suggested to the Commission by some stakeholders. The Bilateral Agreements currently state that the Commonwealth will accept at least 75 per cent of the cost overruns at full scheme.)
- Adjust the governance arrangements to allow the Australian Government to manage a greater proportion of the risk of the cost overruns in line with their greater responsibility for funding these overruns.

More information is requested given that these options are not necessarily mutually exclusive.

In-kind services

The Australian, State and Territory Governments are also able to provide in-kind services (that is, they can transfer already funded disability services to be used by NDIS participants) to the NDIA in lieu of cash contributions towards their NDIS funding commitments. In practice, what this means is that supports in individual participant's plans are described specifically as having to be provided by a particular provider (that is, the provider engaged through the in-kind arrangement).

In-kind contributions are estimated to account for about 19 per cent of total NDIS package costs during transition, and are expected to fall to about 10 per cent in 2020-21. While all governments are reviewing their in-kind contributions on an ongoing basis (with the intention of minimising in-kind contributions in full scheme), there is still some uncertainty around the quantum and scope of in-kind contributions at full scheme. The Commission recommends that all in-kind funding of supports be phased out by the end of the transition. Governments should not continue to make such costly contributions without any requirement to provide additional resources to balance the adverse impacts that such contributions have on financial sustainability, and participant choice and control.

11 Summing it all up

While the issues described above may seem considerable, it is important to consider them in the context of the scale, pace and complexity of the NDIS reform. It will take time to get things right. It is this need for more time that makes the roll out timetable such a key focus for addressing the many and considerable risks identified in this report.

The rollout timetable

As highlighted throughout this position paper, the ambitious timetable for the rollout presents an immediate risk to the success and financial sustainability of the scheme. The speed of the rollout has:

- compromised the quality of plans
- implications for the development of other parts of the scheme, especially the disability care workforce, which is unlikely to be sufficiently developed by 2020 to deliver the supports the NDIA is expected to allocate
- imposed challenging timeframes on the development of important structural elements of the scheme — including details around responsibilities at the coalface in services like health and transport, and instituting the new Quality and Safeguarding Framework.

Some study participants argued that the scheme rollout should be slowed down (box 10). For example, the Mental Health Community Coalition of the ACT argued that slowing

down the implementation of the NDIS would mean that you could 'replace costly mistakes with getting it right in the first place'.

Box 10 Some argued for a slowdown of the transition timetable

Cerebral Palsy Alliance:

> We would strongly recommend that the Commonwealth and States revise the transition timetable to support a realistic and manageable change management process for all stakeholders — as per NSW Bilateral Agreement Management of Risk Clauses 48-51 — if the risk of market, sector and system readiness to transition emerges — changes to the participant phasing schedule may be considered by both parties.

David Parkin:

> The rollout to new areas needs to be slowed. Get the current system as right as it can be. There are enough participants now … who are actually using the system to understand where the effort needs to be applied. The NDIS has to listen to people and Providers.

Australian Lawyers Alliance:

> One important response to the challenges ought in our view to be a reconsideration of the rollout schedule. As at the date of this submission, the rollout is less than nine months old, yet the level of dissatisfaction with the scheme, and the clarity with which problems are being identified, are both rapidly escalating.

Australian Physiotherapy Association:

> Our members are concerned that the balance between the speed of the roll-out and its effectiveness needs to be changed, and the roll-out slowed so that the NDIS can properly train its team, manage its workload and provide consistent support to the regions in which the roll-out is occurring.
>
> Alternatively, the financing of the Scheme needs to be adjusted to address the substantial implementation costs.

Maurice Blackburn Lawyers:

> A prudent approach would be to consider a slower roll-out schedule to help minimise the risks associated with the introduction of the scheme. … A revised rollout schedule could involve a complete cessation of the rollout on a regional basis for a specified period, to enable the remedial work to be undertaken, and a fresh analysis of readiness after that period.
>
> Aside from managing financial risks, a roll-out over an extended period would avoid significant frustration and distress for those living with disabilities and their families, and allow lessons learned from the early results to be incorporated into the scheme's final design.

However, others argued that the rollout schedule should not be changed. For example, the Australian Federation of Disability Organisations said:

> Some in the sector have responded by arguing for a slow down [to] the roll out and to lengthen the transition period. To AFDO and its members, this would be completely unacceptable. For many people with disability, the wait has already been too long. For people who have had little or no support for many years, the NDIS cannot come quickly enough. Slowing down the roll out is therefore not an option.

The Commission acknowledges the hardship that has been imposed on some people with disability under the pre-NDIS arrangements. Given the problems under the current rollout schedule, however, it may be in the interests of people with disability to slow down the

rollout timetable with the objective of securing for them the NDIS's ultimate success and sustainability.

The rollout timetable is tied to the schedules set out in the Bilateral Agreements. Given that the numbers of scheme participants in the Bilateral Agreements are estimates and not hard targets, there may already exist some flexibility for the NDIA to slow down the pace of the rollout should that be required. However, any slowdown would have implications for scheme funding arrangements and the disability services provided by the states and territories. These matters would need to be careful addressed should a slowdown be implemented.

The NDIA is aware of the current problems …

The NDIA acknowledges that the scale of the participant intake has affected the quality of participants' and providers' experiences. The NDIA has been working with participants, providers, peak disability bodies and other stakeholders to identify changes or improvements required to achieve:

- the intake of participants at the rate required by the Bilateral Agreements
- plans that maximise choice and control for participants, and contribute to improved participant outcomes
- plans that are of a high quality
- plans that are financially sustainable so that the aggregate value of all plans remains within the funding envelope.

While the NDIA's proposed new approach is yet to be tested with participants and providers, at this stage the Agency plans to have a greater focus on outcomes, more active involvement with communities, more face-to-face communications, and improved interaction with providers and disability organisations. The NDIA also plans to make improvements to its call centre and portal to make it easier to navigate.

The Commission appreciates that it will take time to implement the changes and for the changes to be reflected in the performance reporting data. On the information received to date about the changes proposed by the Agency, the Commission is unable to form a judgment about whether the much needed focus on participant and provider experiences (and ultimately participant outcomes) can be achieved while also meeting the rollout timetable. A slowdown in the rollout of the scheme may be required. The Commission is seeking feedback on how a slowdown, if required, could be operationalised, and what the implications of a slowdown would be.

… but scheme success and financial sustainability are about more than the rollout

The Commission has identified several other key risks to the success and sustainability of the scheme beyond the rollout, including decisions by the Administrative Appeals Tribunal or courts about what are 'reasonable and necessary' supports, changes to NDIS rules, market readiness, and State and Territory Government responsibility for disability care and mainstream services.

A significant challenge is the need to develop the disability supports market, so that there are enough providers and workers to meet the increased demand for services from scheme participants. Without a sufficient supply of disability supports, the NDIS cannot function as intended.

And all governments need to work together to better manage the integration of the NDIS and other services. As noted earlier, there is evidence of service gaps opening up and an apparent reluctance in some instances to find ready solutions. In these circumstances, it is critical that all governments take greater care when withdrawing from services to ensure that there is genuine continuity of supports for people with disability. Without such care, families and informal carers can be left bearing the burden of unintended gaps, which would be contrary to the objectives of the scheme.

Only an integrated and holistic system, supported by the ongoing and shared commitment and goodwill of people with disability and their families and carers, providers of disability services, governments and the community more broadly, will bring about the expected benefits from the seismic shift in the delivery of supports to those that need them the most. There is enormous goodwill behind the NDIS — and it is needed now more than ever.

Draft recommendations, findings and information requests

How is the scheme tracking?

DRAFT FINDING 2.1

The scale and pace of the National Disability Insurance Scheme (NDIS) rollout to full scheme is highly ambitious. It risks the National Disability Insurance Agency (NDIA) not being able to implement the NDIS as intended and it poses risks to the financial sustainability of the scheme. The NDIA is cognisant of these risks.

DRAFT FINDING 2.2

While a different methodology is used, the National Disability Insurance Agency projections of scheme costs are broadly consistent with the Productivity Commission's modelling of the scheme in 2011, after accounting for sector-specific wage increases, population changes, and costs associated with participants aged over 65 years (who were not included in the Commission's estimates).

DRAFT FINDING 2.3

The National Disability Insurance Scheme, at the end of trial, came in under budget. This was in large part because not all committed supports were used (in 2015-16 the utilisation rate was 74 per cent).

Based on trial and transition data, scheme costs are broadly on track compared to the National Disability Insurance Agency's (NDIA) long-term modelling. At this stage, early cost pressures (such as greater than expected numbers of children and higher than expected package costs) have been offset by lower than expected levels of utilisation.

The NDIA has put in place initiatives to address emerging cost pressures. It is too early to assess the effectiveness of these initiatives.

DRAFT FINDING 2.4

Early evidence suggests that the National Disability Insurance Scheme is improving the lives of many participants and their families and carers. Many participants report more choice and control over the supports they receive and an increase in the amount of support provided.

However, not all participants are benefiting from the scheme. Participants with psychosocial disability, and those who struggle to navigate the scheme, are most at risk of experiencing poor outcomes.

Scheme eligibility

DRAFT RECOMMENDATION 3.1

When determining that an individual is eligible for individualised support through the National Disability Insurance Scheme under the disability requirements, the National Disability Insurance Agency should collect data on which of the activity domains outlined in section 24 of the *National Disability Insurance Scheme Act 2013* (Cwlth) are relevant for each individual when they enter the scheme.

INFORMATION REQUEST 3.1

*The Commission is seeking feedback on the advantages and disadvantages of maintaining '*List D — Permanent Impairment/Early Intervention, Under 7 years — No Further Assessment Required' *in the National Disability Insurance Agency's operational guidelines on access. Feedback is sought on the extent to which the list:*

- *reduces the burden on families to demonstrate that their child will benefit from early intervention and/or provides certainty that support will be provided*
- *reduces the burden on the National Disability Insurance Agency of assessing whether children are eligible for early intervention support under the* National Disability Insurance Scheme Act 2013 *(Cwlth)*
- *may be contributing to supports being provided to children who are unlikely to benefit from such supports*
- *may be discouraging or inhibiting exit from the scheme.*

INFORMATION REQUEST 3.2

The Commission is seeking feedback on the benefits and risks of maintaining 'List A — Conditions which are Likely to Meet the Disability Requirements in section 24 of the NDIS Act'*. In particular:*

- *to what extent does List A reduce the burden for people with permanent and significant disability of entering the National Disability Insurance Scheme under the disability requirements?*
- *is there any evidence that people who do not meet the disability requirements are entering the scheme under List A?*

Scheme supports

INFORMATION REQUEST 4.1

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

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

INFORMATION REQUEST 4.2

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

DRAFT RECOMMENDATION 4.1

The National Disability Insurance Agency should:

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

DRAFT RECOMMENDATION 4.2

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

Boundaries and interfaces with the NDIS

DRAFT FINDING 5.1

It is a false economy to have too few resources for Information Linkages and Capacity Building, particularly during the transition period when it is critical to have structures in place to ensure people with disability (both inside and outside the National Disability Insurance Scheme) are adequately connected with appropriate services.

DRAFT RECOMMENDATION 5.1

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

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

DRAFT RECOMMENDATION 5.2

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

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

DRAFT RECOMMENDATION 5.3

Each COAG Council that has responsibility for a service area that interfaces with the National Disability Insurance Scheme (NDIS) should have a standing item on its agenda to address the provision of those services and how they interface with NDIS services. This item should cover service gaps, duplications and other boundary issues.

Through the review points of National Agreements and National Partnership Agreements under the Federal Financial Relations Intergovernmental Agreement, parties should include specific commitments and reporting obligations consistent with the National Disability Strategy. The Agreements should be strengthened to include more details around how boundary issues are being dealt with, including practical examples.

INFORMATION REQUEST 5.1

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

Provider readiness

DRAFT RECOMMENDATION 6.1

The Australian Government should:

- immediately introduce an independent price monitor to review the transitional and efficient maximum prices for scheme supports set by the National Disability Insurance Agency (NDIA)
- transfer the NDIA's power to set price caps for scheme supports to an independent price regulator by no later than 1 July 2019.

The body tasked with price regulation for scheme supports should:

- collect data on providers' characteristics and costs. This should include appropriate funding to continue the business characteristics and benchmarking study currently undertaken by National Disability Services and Curtin University
- determine transitional and efficient prices for supports at a state and territory level
- comprehensively review and publish its price model on an annual basis. This review should be transparent, have public consultation, be evidence-based and evaluate the effectiveness of prices in meeting clearly-defined objectives
- assess and recommend when to deregulate prices for supports, with particular regard to the type of support and region, on the basis that prices should only be regulated as narrowly, and for as short a time, as possible.

DRAFT FINDING 6.1

In a market-based model for disability supports, thin markets will persist for some groups, including some participants:

- living in outer regional, remote and very remote areas
- with complex, specialised or high intensity needs, or very challenging behaviours
- from culturally and linguistically diverse backgrounds
- who are Aboriginal and Torres Strait Islander Australians
- who have an acute and immediate need (crisis care and accommodation).

In the absence of effective government intervention, such market failure is likely to result in greater shortages, less competition and poorer participant outcomes.

INFORMATION REQUEST 6.1

In what circumstances are measures such as:

- *cross-government collaboration*
- *leveraging established community organisations*
- *using hub and spoke (scaffolding) models*
- *relying on other mainstream providers*

appropriate to meet the needs of participants in thin markets? What effects do each have on scheme costs and participant outcomes? Are there barriers to adopting these approaches?

Under what conditions should block-funding or direct commissioning of disability supports (including under 'provider of last resort' arrangements) occur in thin markets, and how should these conditions be measured?

Are there any other measures to address thin markets?

INFORMATION REQUEST 6.2

What changes would be necessary to encourage a greater supply of disability supports over the transition period? Are there any approaches from other consumer-directed care sectors — such as aged care — that could be adopted to make supplying services more attractive?

Workforce readiness

DRAFT FINDING 7.1

It is unlikely that the disability care workforce will be sufficient to deliver the supports expected to be allocated by the National Disability Insurance Agency by 2020.

DRAFT RECOMMENDATION 7.1

The roles and responsibilities of different parties to develop the National Disability Insurance Scheme workforce should be clarified and made public.

- State and Territory Governments should make use of their previous experience in administering disability care and support services to play a greater role in identifying workforce gaps and remedies tailored to their jurisdiction.
- The Australian Government should retain oversight of workforce development, including how tertiary education, immigration and aged care policy interact and affect the development of the workforce. In doing so, the Australian Government should pay particular attention to immigration policy to mitigate workforce shortages over the transition period.
- The National Disability Insurance Agency should provide State and Territory Governments with data held by the Agency to enable those jurisdictions to make effective workforce development policy.
- Providers of disability supports should have access to a clear and consistent mechanism to alert those tasked with market development about emerging and persistent workforce gaps.

INFORMATION REQUEST 7.1

What is the best way for governments and the National Disability Insurance Agency to work together to develop a holistic workforce strategy to meet the workforce needs of the National Disability Insurance Scheme?

DRAFT RECOMMENDATION 7.2

The National Disability Insurance Agency should publish more detailed market position statements on an annual basis. These should include information on the number of participants, committed supports, existing providers and previous actual expenditure by local government area.

The Australian Government should provide funding to the Australian Bureau of Statistics to regularly collect and publish information on the qualifications, age, hours of work and incomes of those working in disability care roles, including allied health professionals.

DRAFT RECOMMENDATION 7.3

The National Disability Insurance Agency's (NDIA) guidelines on paying informal carers who live at the same residence as a participant should be relaxed for core supports for the period of the National Disability Insurance Scheme (NDIS) transition. Such payments should be:

- accessible under clearly defined and public guidelines, which make reference to worker shortages in the relevant market using the NDIA's information about providers and supports in the participant's region
- set at a single rate determined by the NDIS price regulator in a transparent manner
- reviewed by the NDIA as part of plan reviews.

INFORMATION REQUEST 7.2

How has the introduction of the National Disability Insurance Scheme affected the supply and demand for respite services? Are there policy changes that should be made to allow for more effective provision of respite services, and how would these affect the net costs of the scheme and net costs to the community?

Participant readiness

INFORMATION REQUEST 8.1

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

DRAFT RECOMMENDATION 8.1

The National Disability Insurance Agency should implement the eMarketPlace discussed in the *Integrated Market Sector and Workforce Strategy* as a matter of priority.

INFORMATION REQUEST 8.2

Is there scope for Disability Support Organisations and private intermediaries to play a greater role in supporting participants? If so, how? How would their role compare to Local Area Coordinators and other support coordinators?

Are there any barriers to entry for intermediaries? Should intermediaries be able to provide supports when they also manage a participant's plan? Are there sufficient safeguards for the operation of intermediaries to protect participants?

Governance

DRAFT RECOMMENDATION 9.1

The requirement that changes to National Disability Insurance Scheme Category A Rules have unanimous agreement from the Australian Government and all host jurisdictions should be relaxed.

DRAFT RECOMMENDATION 9.2

The Western Australian Government and Australian Government should put in place arrangements for Western Australia to transition to the National Disability Insurance Scheme. Any decision to join the national scheme should be made public as soon as possible.

DRAFT RECOMMENDATION 9.3

The National Disability Insurance Agency should publicly report on the number of unexpected plan reviews and reviews of decisions, review timeframes and the outcomes of reviews.

DRAFT RECOMMENDATION 9.4

The performance of the National Disability Insurance Scheme (NDIS) should be monitored and reported on by the National Disability Insurance Agency (NDIA) with improved and comprehensive output and outcome performance indicators that directly measure performance against the scheme's objectives.

The NDIA should continue to develop and expand its performance reporting, particularly on outcomes, and Local Area Coordination and Information, Linkages and Capacity Building activities. The NDIA should also fill gaps in its performance reporting, including reporting on plan quality (such as participant satisfaction with their plans and their planning experience, plans completed by phone versus face-to-face, and plan reviews).

The *Integrated NDIS Performance Reporting Framework* should be regularly reviewed by the NDIA and the COAG Disability Reform Council and refined as needed.

DRAFT RECOMMENDATION 9.5

In undertaking its role in delivering the National Disability Insurance Scheme, the National Disability Insurance Agency needs to find a better balance between participant intake, the quality of plans, participant outcomes and financial sustainability.

INFORMATION REQUEST 9.1

The Commission is seeking feedback on the most effective way to operationalise slowing down the rollout of the National Disability Insurance Scheme in the event it is required. Possible options include:

- *prioritising potential participants with more urgent and complex needs*
- *delaying the transition in some areas*
- *an across-the-board slowdown in the rate that participants are added to the scheme.*

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

Funding arrangements

DRAFT FINDING 10.1

The objective of the escalation parameters is not specified in the Bilateral Agreements between the Australian Government and the State and Territory Governments at full scheme.

The existing escalation parameters are unlikely to reflect the full increase in National Disability Insurance Scheme (NDIS) costs over time, which would result in the Australian Government bearing a higher share of NDIS costs over time.

INFORMATION REQUEST 10.1

The Commission is seeking views on the role of the escalation parameters in the Bilateral Agreements between the Australian Government and the State and Territory Governments.

Should escalation parameters be set on the basis of maintaining a constant real per capita contribution to the National Disability Insurance Scheme by State and Territory Governments; or should they be more explicitly tied to scheme costs so that the proportion of funding allocated to the Australian Government and the State and Territory Governments is maintained over time?

DRAFT FINDING 10.2

Responsibility for funding National Disability Insurance Scheme (NDIS) cost overruns should be apportioned according to the parties best able to manage the risk. This is not the case in the transition period, as the Australian Government bears all the risk of any cost overruns, but not all the control.

The governance arrangements for the NDIS do not allow the National Disability Insurance Agency to respond swiftly when factors outside its control threaten to impose cost overruns.

INFORMATION REQUEST 10.2

The Commission is seeking information on the best way to align the ability to control cost overruns with the liability to fund cost overruns. Possible options include:

- *estimating the proportion of cost overruns that the Australian and State and Territory Governments are responsible for and allocating funding responsibility accordingly*
- *altering the governance arrangements of the National Disability Insurance Scheme to give the Australian Government greater authority to manage the risk of cost overruns, to better reflect their funding liability.*

DRAFT RECOMMENDATION 10.1

At full scheme, the annual operating budget for the National Disability Insurance Agency should be set within a funding target of 7-10 per cent of package costs with the expectation that, on average, it would sit at the lower end of the band.

The National Disability Insurance Agency should be required, in its annual report, to state reasons why it has not met this target in any given year.

DRAFT RECOMMENDATION 10.2

The Australian Government should reconsider the staffing cap on the National Disability Insurance Agency, given the importance of developing internal capability and expertise.

INFORMATION REQUEST 10.3

The Commission seeks feedback on the level of a future contingency reserve that would enable the National Disability Insurance Agency to operate like an insurance scheme, and how this would best be implemented, including any transitional arrangements.

DRAFT RECOMMENDATION 10.3

In-kind funding arrangements should be phased out by the end of transition and should not form part of the intergovernmental agreements for full scheme funding. Should in-kind funding persist beyond transition, jurisdictions should face a financial penalty for doing so.