
Recommendations

Chapter 3 Who is the NDIS for?

RECOMMENDATION 3.1

The National Disability Insurance Scheme (NDIS) should have three main functions. It should:

- *cost-effectively minimise the impacts of disability, maximise the social and economic participation of people with a disability, create community awareness of the issues that affect people with disabilities and facilitate community capacity building. These measures should be targeted at all Australians*
- *provide information and referral services, which should be targeted at people with, or affected by, a disability*
- *provide individually tailored, taxpayer-funded support, which should be targeted at people with significant disabilities who are assessed as needing such support (but excluding those people with newly-acquired catastrophic injuries covered by the National Injury Insurance Scheme — recommendation 18.1).*

RECOMMENDATION 3.2

Individuals receiving individually tailored, funded supports through the NDIS:

- *should have a disability that is, or is likely to be, permanent, and*
- *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 individuals for whom there is good evidence that the intervention is safe, significantly improves outcomes and is cost effective*

In exceptional cases, the scheme should also include people who would receive large identifiable benefits from support that would otherwise not be realised, and that are not covered by the groups above. Guidelines should be developed to inform the scope of this criterion and there should be rigorous monitoring of its effects on scheme costs.

RECOMMENDATION 3.3

The NDIS should cover:

- *all residents of Australia who are also one of the following:*
 - *Australian citizens*
 - *Australian permanent residents*
 - *New Zealand citizens who were Australian residents on 26th February 2001*
- *asylum seekers.*

NDIS entitlements should be available to eligible people only while they are within Australia.

The Australian Government should consider reciprocal arrangements for disability support with other countries, including New Zealand, after the NDIS is rolled out.

RECOMMENDATION 3.4

The NDIS should provide advice to people about those instances where support would be more appropriately provided through non-NDIS services. Support should be provided outside the NDIS for people whose:

- *disability arose from a workplace accident or catastrophic injury covered by the National Injury Insurance Scheme (NIIS)*
- *support needs would be more appropriately met by the health and/or palliative care systems, comprising:*
 - *those who would benefit from largely medically oriented interventions (including less restrictive musculoskeletal and affective disorders, and many chronic conditions)*
 - *many people with terminal illnesses*
- *support needs would be more appropriately met by the aged care system*
- *needs were only in relation to open employment, public housing or educational assistance.*

RECOMMENDATION 3.5

The NDIS should put in place memoranda of understanding with the health, mental health, aged and palliative care sectors to ensure that individuals do not fall ‘between the cracks’ of the respective schemes, and to have effective protocols for timely and smooth referrals.

RECOMMENDATION 3.6

Upon reaching the Age Pension age (and at any time thereafter), a person formerly receiving an individualised package from the NDIS should be given the choice of:

- *staying with NDIS service arrangements, where their support arrangements would continue as before, including any arrangements with disability support organisations, their group accommodation, their local area coordinator and their use of self-directed funding*
- *moving to the aged care system, where they would be governed by all of the support arrangements of that system, including its processes (such as assessment and case management approaches).*

If a person over the Age Pension age requires long-term residential aged care then they should move into the aged care system to receive that support.

The Australian Government funding responsibility for the support of aged people using disability services should be along the lines specified in the National Health and Hospitals Network Agreement.

In implementing this recommendation, a younger age threshold than the Age Pension age should apply to Indigenous people given their lower life expectancy, as is recognised under existing aged care arrangements.

RECOMMENDATION 3.7

Following the transition spelt out in recommendation 19.1, the NDIS should fund all people who meet the criteria for individually tailored supports (as specified in recommendations 3.2 to 3.4), and not just people who acquire a disability after the introduction of the scheme.

RECOMMENDATION 3.8

The supports to which an individual would be entitled should be determined by an independent, forward-looking assessment process by the NDIA, rather than people’s current service use.

Chapter 4 The role of the community

RECOMMENDATION 4.1

The NDIA should improve engagement of the general community and people with disabilities by:

- *forming a ‘compact’ with not-for-profit disability service providers that would:*
 - *use the voluntary and philanthropic resources freed up by the creation of a properly funded NDIS for activities that promote community engagement and employment for people with disabilities*
 - *clarify their new roles in the system*
- *undertaking local initiatives, including improving access to buildings and public spaces, to address disability issues within the community*
- *offering modest grants that leverage engagement by community clubs and associations with people with disabilities and that would be likely to yield social or economic benefits consistent with the size of the grant. The effectiveness of such financial incentives should be independently evaluated after a reasonable period*
- *specifying roles for local area coordinators and disability support organisations to connect NDIS participants with the local community and to build the capacity of the community for such interaction.*

RECOMMENDATION 4.2

Prior to implementing recommendation 4.1, the NDIA should consult with not-for-profit organisations and relevant government agencies on the best arrangements for ‘community capacity building’ or ‘social inclusion’ initiatives to ensure that any overlap or paperwork burden, or displacement of funding, is kept to a minimum.

Chapter 5 What individualised supports will the NDIS fund?

RECOMMENDATION 5.1

The NDIS should cover the current full range of disability supports. The supports would need to be ‘reasonable and necessary’. The NDIS should also support the development by the market of innovative support measures (using the approaches set out in recommendation 10.3).

The delivery of prosthetics should be reformed by:

- *establishing proper funding for prostheses and attachments, including timely replacements and reasonable repairs*
- *improving the level of prostheses available to a reasonable and necessary standard, as determined by the NDIA on the advice of a clinical board.*

The NDIS should fund permanent functional prosthetic limbs for those eligible for individualised funded supports. The health system should continue to fund and provide interim prostheses provided in hospitals.

The NIIS should fund functional prosthetic limbs for amputations arising from future catastrophic injury.

The NDIS should allow co-contributions from amputees who wish to upgrade their prostheses, subject to an agreement about the costs of, and responsibilities for, repair.

There should be no income or asset tests for obtaining funded NDIS services and no general requirement for a front-end deductible. A front-end deductible should only be considered if, after the implementation of the NDIS, small claims clog up the NDIS assessment process.

People should pay the full costs of services (primarily therapies) for which clinical evidence of benefits are insufficient or inconclusive if they wish to consume those services.

Services that meet the needs of much wider populations, including people with disabilities not covered by the NDIS, should lie outside the scheme:

- *health, public housing, public transport, education and open employment services should remain outside the NDIS, with the NDIS providing referrals to them*
 - *but Australian Disability Enterprises, disability-specific school to work programs, some taxi subsidies, and specialised accommodation services should be funded and overseen by the NDIS.*

RECOMMENDATION 5.6

The Australian Government should not pay the Mobility Allowance to people eligible for individually funded packages in the NDIS. The NDIS should assess people's individual mobility needs and fund these on a reasonable and necessary basis. People not eligible for funded support by the NDIS should continue to get the Mobility Allowance if they meet the eligibility requirements for that Allowance.

RECOMMENDATION 5.7

The NDIS should seek memoranda of understanding (MOUs), with relevant mainstream services, including housing, education, transport and employment. The MOUs should detail the separation between specialist disability and mainstream services and the process for making referrals between the two.

Chapter 6 Aligning the goals of the Disability Support Pension with the National Disability Insurance Scheme

RECOMMENDATION 6.1

The Disability Support Pension (DSP) should not be funded or overseen by the NDIS. The Australian Government should reform the DSP to ensure that it does not undermine the NDIS goals of better economic, employment and independence outcomes for people with disabilities.

Reforms to the DSP should aim to:

- *encourage the view that the norm should not be lifelong use of the DSP, among:*
 - *people with non-permanent conditions*
 - *people with permanent conditions who could have much higher hopes for employment participation*
- *redefine the DSP as a transitional disability benefit, not as a pension, for those with some employment prospects, while retaining the pension for those with low employment prospects*
- *reduce the disincentives to work while on the benefit by reducing benefit taper rates, permanently relaxing or removing the work test for people already receiving disability benefits, and trialing 'sign-on' bonuses for those on DSP who gain paid work*

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- *provide greater support to employers to encourage employment of people with disabilities, including greater wage subsidies*
 - *tap private innovative arrangements for greater economic and social participation of people on the DSP through social bonds*
 - *improving data collection and analysis for monitoring outcomes for people on the DSP and the interventions that produce the largest impacts.*

The above reforms should not be limited to new entrants into the DSP.

As a general principle, all people with disabilities should face the same eligibility test for the DSP. However, the longstanding automatic qualification of blind people for the DSP should remain for current recipients of the pension, but should not apply to new applicants.

While the Australian Government should consider the early implementation of some of the above measures, it should also establish a public inquiry into the DSP to:

- *develop the best path to implementation of the above options, where they cannot be put in place quickly*
- *assess how the DSP could be further redesigned to be compatible with the social and economic participation goals of the NDIS.*

Chapter 7 Assessing care and support needs

RECOMMENDATION 7.1

Working within the framework of the International Classification of Functioning, Disability and Health (ICF), the assessment process undertaken by the NDIA should identify the supports required to address an individual's reasonable and necessary care and support needs across a broad range of life activities, and should take account of an individual's aspirations and the outcomes they want to achieve.

RECOMMENDATION 7.2

The assessment process should be a valuable intervention in its own right, rather than just an entry point to supports. The process should:

- *draw on multiple sources of information, including:*
 - *information provided by the individual with a disability, including their aspirations and requirements for supports*

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- *information provided by an individual’s circle of support, including family members, carers and direct support professionals*
 - *information on the current support provided both formally and informally*
 - *current medical information on the person with a disability*
 - *assess the nature, frequency and intensity of an individual’s support needs. The process should be person-centred and forward looking and consider the supports that would cost-effectively promote people’s social and economic participation, rather than only respond to what an individual cannot do*
 - *determine what supports outside the NDIS people should be referred to, including referrals to Job Services Australia providers*
 - *consider what reasonably and willingly could be provided by unpaid family carers and the community (‘natural supports’)*
 - *translate the reasonable needs determined by the assessment process into a person’s individualised support package funded by the NDIS, after taking account of natural supports*
 - *provide efficiently collected data for program planning, high level reporting, monitoring and judging the efficacy of interventions.*

RECOMMENDATION 7.3

The assessment tools should be valid and reliable, relatively easy to administer and exhibit low susceptibility to gaming. The tools should be employed nationally to ensure equitable access to nationally funded support services (and allow portability of funding across state and territory borders when people move).

RECOMMENDATION 7.4

Assessments should be undertaken by trained assessors engaged by the NDIA. To promote independent outcomes, assessors should not have a longstanding connection to the person. The NDIA should continually monitor and evaluate assessors’ performance to ensure comparability of outcomes and to avoid ‘bracket creep’.

RECOMMENDATION 7.5

The NDIA should periodically reassess people’s need for funded support, with a focus on key transition points in their lives.

RECOMMENDATION 7.6

Where an informal carer provides a substantial share of the care package, they should receive their own assessment if they wish. This should seek to identify their views on the sustainability of arrangements and the ways in which the NDIS should support their role, including through the initiatives recommended in recommendation 15.3.

RECOMMENDATION 7.7

The consultation with the family as part of the assessment process should also explore the need for:

- *assistance with long-term planning, particularly for adults with cognitive impairments living at home with elderly parents*
- *family/sibling counselling where there are high levels of carer stress.*

Responses to family needs should be tiered, with referrals to local support groups for those with less significant needs, and access to NDIS-funded specialist assistance where the needs were high.

RECOMMENDATION 7.8

The NDIS should establish a coherent package of tools (a ‘toolbox’), which assessors would employ across a range of disabilities and support needs (including planning and active support, attendant care, aids and equipment, and home modifications).

RECOMMENDATION 7.9

The assessment tools should be subject to ongoing monitoring, as well as a regular cycle of evaluation against best practices, including the ICF framework, and, if necessary, recalibration. The scheme should have systematic internal mechanisms to ensure that anomalies can be analysed and addressed.

RECOMMENDATION 7.10

The NDIS should use the best available tools in its initial implementation phase, with the ongoing development of best-practice tools.

Chapter 8 Who has the decision-making power?

RECOMMENDATION 8.1

Governments should give people with disabilities eligible for benefits under the NDIS, and/or people who act on their behalf, various options for exercising choice, including the power to:

- *choose service provider/s to meet their needs specified in their individual packages*
- *choose disability support organisations that would act as intermediaries on their behalf when obtaining the supports specified in their individual packages from service providers*
- *‘cash out’ all or some of their individual packages if they wish, with the NDIA making direct payments to their bank accounts, and allowing people to purchase directly the detailed package of supports that best meets their preferences (‘self-directed funding’), subject to the constraints set out in recommendations 8.2, 8.7 and 8.8.*
 - *the specific arrangements for self-directed funding should be underpinned by the principle that, subject to the assessed individual budget and appropriate accountability requirements, the arrangements should maximise the capacity for a person to choose the supports that meet their needs best and that promote their participation in the community and in employment*
- *choose a combination of the above.*

RECOMMENDATION 8.2

Self-directed funding should include the following key stages.

- *It would be informed by any prior planning and aspirations expressed by the person during the assessment phase (recommendation 7.2).*
- *The individual budget for self-directed funding would be based on the formal individual assessment of the person’s needs. The budget should include the cashed out value of all goods and services covered by the NDIS, with the exception of those where cashing out would pose credible risks to the person and/or the sustainability of the scheme.*
- *The person with a disability — and/or their support network or chosen disability support organisation — would create a personal plan and a concrete funding proposal to the NDIA that outlines the person’s goals and the type of support that would be necessary and reasonable to achieve within the allocated budget.*

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- *The resulting funding proposal would require approval by the NDIA.*

There should be a capacity for a person to:

- *obtain quick approvals for changes to a funding proposal*
- *add their own private funds to a funding proposal*
- *allocate the individual budget to any mix of preferred specialist and mainstream goods and services, subject to the requirements that the person spend the budget in areas related to his or her disability needs and consistent with the agreed funding proposal*
- *jointly manage their cashed out benefits with a disability support organisation ('shared management').*

RECOMMENDATION 8.3

The NDIA should pay annual allocations of self-directed funding in monthly instalments paid one month in advance, with the capacity for the person to 'bank' up to 10 per cent of the annual allocation to the subsequent year.

RECOMMENDATION 8.4

There should be a capacity for people to recruit and employ their own support workers, subject to the proviso that these should not be close family members, other than when:

- *care is intermittent and provided by a non-resident family member*
- *exceptional circumstances are present and after approval by the NDIA*
- *the person is in the family employment trial spelt out in recommendation 8.5.*

RECOMMENDATION 8.5

There should be a trial of the employment of family members under self-directed funding to assess its risks, advantages, disadvantages and optimal design, with its wider adoption if the evaluation proves positive. The trial should use an appropriately rigorous scientific approach, drawing on the evaluations used in the United States 'Cash and Counseling' programs. For the trial:

- *the NDIA should determine that there are low risks from hiring relatives for each family in the trial*
- *the individual budget should be discounted by 20 per cent*
- *support should be initially limited in duration to six months, with continuation of any arrangement for a given family based on a short review*
- *risks should be carefully managed to ensure appropriate use of funds and to safeguard people with disabilities and carers (recommendation 8.8).*

RECOMMENDATION 8.6

The NDIA should:

- *inform people with disabilities and/or people who act on their behalf of the various options for self-directed funding*
- *encourage the formation of disability support organisations to support people in the practical use of self-directed funding*
- *provide support for people using self-directed funding, including:*
 - *easy-to-understand guidance about the practical use of self-directed funding*
 - *the provision of examples of innovative arrangements*
 - *standard simple-to-follow forms for funding proposals, hiring employees and acquittal of funds*
 - *making people aware of their capacity to contract out the administrative tasks associated with self-directed funding to disability support organisations*
- *provide training to local area coordinators, service providers and NDIA front-line staff about self-directed funding.*

RECOMMENDATION 8.7

Before offering self-directed funding to a person, the NDIA should:

- *meet with the person with a disability (and if appropriate, others involved in their care and support), and take account of their experience and skill sets*
- *use that and any information provided during the assessment phase to determine whether the person and/or their support network are likely to be able to:*
 - *make reasonably informed choices of services*
 - *manage the administrative and financial aspects of funding if they wish to oversee these aspects by themselves.*

RECOMMENDATION 8.8

In offering self-directed funding, the NDIA should ensure that:

- *it reduces the risks of neglect or mistreatment of people with a disability by support workers or other service providers hired by users in the informal sector, by:*

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- *ensuring easy and cheap access to police checks*
 - *giving users the capacity to complain to the NDIA about inappropriate behaviour of providers, and to have these investigated*
 - *monitoring by local area coordinators*
 - *it reduces the risks to support workers employed under self-directed funding by requiring that they are covered by workers' compensation arrangements and have an avenue for lodging complaints*
 - *it adopts a risk-management approach for receipting and other accountability requirements, which:*
 - *requires less accountability for people with low risks or who have demonstrated a capacity to manage their funds well*
 - *takes into account the compliance costs of excessive accountability measures*
 - *allows a small component of the individual budget to be free of any receipting requirements*
 - *there is adequate data disclosure, subject to measures to limit unnecessary 'red tape burden'.*

RECOMMENDATION 8.9

The NDIA should undertake ongoing monitoring of self-directed funding arrangements, with a quarterly report to the board of the NDIA on issues arising from self-directed funding. There should be a full evaluation three years after their commencement to assess any desired changes in their design.

RECOMMENDATION 8.10

The Australian Government should amend the Income Tax Assessment Act 1936 and the Social Security Act 1991 so that the following are not treated as income for assessment of taxes or eligibility for income support or other welfare benefits:

- *self-directed funding paid by the NDIA and, in the interim, by state and territory governments*
- *early compassionate release of eligible superannuation amounts for disability expenditures which meet the criteria set down by the Superannuation Industry (Supervision) Act 1993.*

Chapter 9 Governance of the NDIS

RECOMMENDATION 9.1

The Australian Government should establish a new independent Commonwealth statutory authority, the National Disability Insurance Agency (NDIA), to administer the National Disability Insurance Scheme.

The NDIA should be subject to the requirements of the Commonwealth Authorities and Companies Act 1997 (CAC Act), not the Financial Management and Accountability Act 1997.

RECOMMENDATION 9.2

An independent skill-based board should oversee the NDIA. The board should comprise people chosen for their commercial and strategic skills, and expertise in insurance, finance and management, and should include some people with these skills who also have experience and understanding of disability.

- *As specified in the CAC Act, the board should not be constituted to be representative of particular interest groups, including governments, disability client or service provider groups.*

State and territory governments and the Australian Government should together establish an appointment panel comprising people with skills and experience in these areas, including people with a clear interest in disability policy issues.

- *The panel should nominate multiple candidates for each board vacancy against tightly specified selection criteria set down in the Act governing the NDIA. Appointments should be based on the majority decision of governments.*

With the agreement of the majority of state and territory governments, the Australian Government should have the power to remove the chair or dissolve the board as a whole.

The board would have the sole power to appoint the CEO and to dismiss him or her if necessary, without authorisation from governments.

RECOMMENDATION 9.3

State and territory governments together with the Australian Government, should establish an advisory council. The council should provide the board of the NDIA with ongoing advice on its activities and effectiveness in meeting its objectives, from the perspectives of people with disabilities, carers, suppliers of equipment and services, and state and territory service providers.

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- *The council should comprise representatives of each of these groups.*

RECOMMENDATION 9.4

There should be a red-tape advisory group for the NDIA that includes key stakeholders — people with disabilities, carers, service providers and disability support organisations. It should advise the NDIA on ways of controlling compliance burdens on providers, people with disabilities and carers, and to ensure plain English forms, letters and emails.

RECOMMENDATION 9.5

The arrangements between the NDIA and governments should be at arm's length, and subject to strict transparency arrangements.

The federal Treasurer should have responsibility for the NDIA.

RECOMMENDATION 9.6

With the agreement of, and input from, state and territory governments, the Australian Government should provide the NDIA with its own legislation that specifies its objectives and functions, and its governance arrangements.

- *Financial sustainability should be a specific obligation of the board, the management and the minister, and this obligation should be enshrined in legislation. It should specifically guide any external review (recommendation 9.9).*
- *An entitlement to reasonable support should be enshrined in legislation, together with details about people's eligibility for services and the range of services to be offered.*

Future changes to the key features of the scheme should be undertaken only by explicit changes to the Act itself, be subject to the usual processes of community and Parliamentary scrutiny, and require consultation with all state and territory governments.

- *Such proposed legislative changes should be accompanied by an independent assessment of the impact of the changes on the sustainability of the scheme, which should be made publicly available.*

RECOMMENDATION 9.7

An independent actuarial report on the NDIA's management of the NDIS should be prepared quarterly and annually, and provided to the board, the regulator (the Australian Treasury), the federal Treasurer, and to all state and territory governments. It should assess risks, particularly in regards to the capacity of the expected funding stream to meet expected liabilities within its funding framework, the source of the risks and the adequacy of strategies to address those risks.

RECOMMENDATION 9.8

A specialist unit should be established within the federal Treasury to monitor the performance of the NDIA against a range of cost and performance indicators, to report its findings annually to its minister, state and territory governments and the public, and to provide policy advice to the Australian Government on the scheme.

RECOMMENDATION 9.9

The NDIA should be independently reviewed, initially after its first three years of operation, and every five years thereafter, with the outcomes publicly and promptly released.

RECOMMENDATION 9.10

The NDIA should be subject to benchmarking with other comparable corporate entities to assess its relative efficiency in its various functions, with the federal Treasury initiating benchmarking studies.

RECOMMENDATION 9.11

The NDIS and the NDIA should cover all Australian jurisdictions.

In the event that all jurisdictions do not agree to the establishment of a single national scheme then, as a second-best option, it should still be established, but with its funding and scheme design only applying to participating jurisdictions.

In the event that this second-best option is not adopted, a third-best option would be greater Australian Government funding of state and territory disability systems, but matched by the requirement that to receive that funding, any jurisdiction would need to:

- *adopt the same national eligibility criteria, assessment tools and arrangements for assessors*

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- *ensure entitlements to the full range of necessary individually tailored supports are based on the national assessment process*
 - *provide certainty of funding based on need*
 - *give genuine choice over how people’s individual packages were met, including choice of provider and portability of entitlements across borders*
 - *shift from block funding to individualised funding in the forms spelt out in recommendation 8.1*
 - *use the model and management of an insurance scheme, including the sophisticated collection and analysis of data to measure the outcomes and performance of the system, and a national research capacity*
 - *require providers to conform to common quality standards, compete on a competitively neutral basis and be remunerated using efficient prices determined by the NDIA and taking account of regional and other variations*
 - *adopt nationally consistent and publicly available measures of the performance of service providers*
 - *include local area coordinators and disability support organisations in their schemes*
 - *adopt service provider and workforce development strategies.*

RECOMMENDATION 9.12

The NDIA should establish two service charters that specify respectively the appropriate conduct of the (i) NDIA and (ii) specialist service providers and disability support organisations.

RECOMMENDATION 9.13

The wording of the NDIA Act should limit the capacity of merits review processes to widen eligibility or entitlement. It should require that any claims by NDIA participants would need to:

- *meet a ‘reasonable person’ test*
- *balance the benefits to the person with a disability against the costs to the scheme, including any adverse implications for the long run sustainability of the scheme from the review outcome*
- *take into account the obligation of people with disabilities or their families to avoid decisions that unreasonably impose costs on the scheme.*

RECOMMENDATION 9.14

The legislation establishing the NDIA should create an Office of the Inspector-General as an independent body within the NDIA. The Office should be headed by an independent statutory officer (the Inspector-General), to be appointed by the Australian Government.

The Inspector-General should:

- *hear complaints about breaches of the service charters (recommendation 9.11)*
- *review contested NDIA decisions on a merit basis (but with appeals on matters of law being heard by courts in the usual way)*
- *have the power to direct the NDIA to alter contested decisions*
- *oversee quality assurance of service providers*
- *be separate from the other parts of the NDIA dealing with people with disabilities and service providers.*

The legislation should specify that the Inspector-General would be independent, would act fairly and impartially, basing their decisions on the available evidence, and could not be directed in their decision-making. The Inspector-General should report to the public and to Parliament on the number, types and outcomes of complaints and appeals (subject to privacy protections), and regularly advise the NDIA board on issues arising from its independent investigations.

RECOMMENDATION 9.15

If the Australian Government does not accept the Commission's proposed appeals process (recommendation 9.14), two other less preferred options would be that:

- *the NDIA should use the Inspector-General as an interim arrangement during the setup and establishment years of the NDIS, and then revisit the appropriateness of external administrative tribunals*
- *the Australian Government should create a specialist arm of the Administrative Appeals Tribunal to hear appeals on merit about the NDIA's decisions subject to the constraints of recommendation 9.13. In this instance, the Australian Government should set aside significant additional resources to fund this specialist arm and should include a larger reserve for the NDIS, calculated to take account of the higher risks of this approach.*

Chapter 10 Delivering disability services

RECOMMENDATION 10.1

The NDIA should support consumer decision-making by providing:

- *a centralised internet database of service providers that indicates the ranges of products and services, price, availability and links to measures of performance and quality*
- *well resourced and effective provision of advice and information to clients, as well as monitoring of their wellbeing, through local area coordinators. These services should be graduated in terms of the needs of the client and concentrated at key points, such as when entering the disability system or important transition periods*
- *funding for disability support organisations, on an individual basis according to assessed need, to provide additional assistance with brokerage, planning and administration.*

RECOMMENDATION 10.2

The Australian Government should, with privacy safeguards, fund and develop a national system for a shared electronic record of the relevant details of NDIA participants, including assessed need, service entitlements, use and cost of specialist disability services, outcomes and other key data items.

RECOMMENDATION 10.3

The NDIA should develop and implement a quality framework for disability providers, which would include:

- *the development of complete, nationally consistent standards that would apply to all funded specialist service providers and disability support organisations. The NDIA should monitor compliance with these standards and other regulations through a range of instruments, including graduated and rolling audits of service providers, community visitors, senior practitioners, independent consumer surveys, complaints, monitoring by local area coordinators and interrogation of the electronic disability record*
- *arrangements that encourage the diffusion of best practice throughout the disability sector*
- *providing consumers with information about the quality and performance of service providers on the national internet database of service providers*
- *establishing an innovation fund that providers would use for developing and/or trialling novel approaches to disability services.*

RECOMMENDATION 10.4

The Australian Government, through the Department of Families, Housing, Community Services and Indigenous Affairs should continue to provide funding for general advocacy by non-government organisations, with no involvement by the National Disability Insurance Agency in this funding role.

State and territory funding of disability advocacy groups should continue.

Chapter 11 Disability within the Indigenous community

RECOMMENDATION 11.1

The NDIS should provide funding for implementation, research and transparent evaluation of early intervention initiatives:

- *but to avoid duplication, should cooperate with the wide range of agencies and programs already targeting the preventable risks that generate higher rates of disability among Indigenous Australians.*

RECOMMENDATION 11.2

The Australian Government and state and territory governments should consider the feasibility of overcoming the barriers to service delivery in the NDIS for Indigenous people with a disability by:

- *block funding suitable providers where services would not otherwise exist or would be inadequate*
- *fostering smaller community-based operations that consult with local communities and engage local staff, with support from larger experienced service providers, in particular those with a high level of community ownership*
- *employing and developing Indigenous staff*
- *developing the cultural competency of non-Indigenous staff*
- *encouraging innovative, flexible and local problem solving, as well as conducting and publishing evaluations of trials in order to better understand what works and why*
- *developing an effective and cost-effective balance between bringing services to remote areas, and bringing people with a disability in remote areas to services*

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- *working with state and territory governments, indigenous advocacy groups and other community groups to develop and refine funding strategies, better understand local and systemic issues as well as successful (and unsuccessful) approaches and diffusing this knowledge to other service providers, researchers working in this field and the broader community.*

In its initiatives for delivering disability supports to Indigenous people, the NDIS should be mindful of the wider measures addressing Indigenous disadvantage being adopted throughout Australia.

Chapter 12 Collecting and using data under the NDIS

RECOMMENDATION 12.1

Prior to the implementation of the NDIS, the NDIA should design and establish extensive and robust data systems, underpinned by the associated information technology and administrative systems. The systems should be used to develop a central database that would:

- *guide financial management of the scheme, and in particular, to continuously manage risks to scheme sustainability and to pinpoint areas of inefficiency*
- *inform decisions about disability services and interventions*
- *monitor and evaluate outcomes for people*
- *enable performance monitoring of service providers.*

Disability support organisations, service providers and participants would be required to provide timely relevant data to the NDIA.

RECOMMENDATION 12.2

The Australian Government should establish a national independent research capacity in the early stages of the implementation of the NDIS. The NDIA should determine how research is undertaken and the research agenda, following public consultation.

RECOMMENDATION 12.3

The NDIA should make relevant data, research and analysis publicly available, subject to confidentiality, privacy and ethical safeguards.

RECOMMENDATION 12.4

In implementing recommendation 12.1, the NDIA should determine, after consultation with relevant stakeholders, including the Australian Privacy Commissioner:

- *the key actuarial information needed to underpin sound scheme management*
- *data standards, definitions, terminology and collection processes*
- *data reporting standards, taking into account the Australian Government's initiatives for standard business reporting*
- *arrangements for achieving inter-connectedness of information technology systems among the NDIA, other relevant government agencies and service providers*
- *rules for accessing data, including confidentiality and privacy safeguards*
- *arrangements for integrating data and associated information technology and administrative systems with eHealth initiatives.*

The NDIA should then establish data collection and associated IT and administrative systems that link all agencies and service providers within the disability system.

Chapter 13 Early intervention

RECOMMENDATION 13.1

Early intervention approaches used by the NDIA should draw on evidence of their impacts and be based on an analysis of the likelihood of cost-effective outcomes. NDIS funding for early intervention should be additional to that allocated to people in the scheme for their ongoing care and support and should not be able to be cashed out under self-directed care packages.

RECOMMENDATION 13.2

The NDIA should build an evidence base on early intervention. It should commence this task by identifying, in consultation with stakeholders, existing or potentially promising approaches for further research.

Chapter 14 Where should the money come from? Financing the NDIS

RECOMMENDATION 14.1

The costs of supporting people with a significant disability from year to year through the NDIS should be viewed as a core funding responsibility of government and met from claims on general government revenue (a ‘pay as you go’ scheme):

- *but would be subject to the strong disciplines for certainty of funding specified in recommendation 14.2*
- *supplemented by payments from government to create reserve funds.*

However, the scheme should be managed and reported as if it were a ‘fully-funded’ scheme in which each year’s funding is considered in the context of the scheme’s expected future liabilities.

RECOMMENDATION 14.2

The Australian Government should be the single funder of the NDIS. It should direct payments from consolidated revenue into a National Disability Insurance Premium Fund, using an agreed formula entrenched in legislation that:

- *provides stable revenue to meet the independent actuarially-assessed reasonable needs of the NDIS*
- *includes funding for adequate reserves.*

If the Australian Government does not adopt that option, it should:

- *legislate for a levy on personal income (the National Disability Insurance Premium), with an increment added to the existing marginal income tax rates, and hypothecated to the full revenue needs of the NDIS*
- *set a tax rate for the premium that takes sufficient account of the pressures of demographic change on the tax base and that creates a sufficient reserve for prudential reasons.*

RECOMMENDATION 14.3

The Australian Government should seek offsets for the Australia-wide fiscal implications of the transfer of responsibility from state and territory governments by:

- *making no further special purpose payments to state and territory governments for disability supports, AND*
- *signing an intergovernmental agreement with participating state and territory governments that:*

(a) reduces state and territory stamp duties by the amount of own-state revenue they used to provide to disability and relevant community mental health services OR

(b) transfers existing state and territory spending in these areas to the Australian Government.

RECOMMENDATION 14.4

If the Australian Government does not accept that it should be the sole funder of the NDIS, then it should sign an intergovernmental agreement with state and territory governments that creates a pooled funding arrangement that:

- provides a transparent and accountable basis for contributions by each jurisdiction*
- uses the aggregate formula entrenched in legislation as spelt out in recommendation 14.2 to ensure the total pool size is sufficient to meet people's entitlements*
- ensures that state and territory governments that provide less own-state funding for disability supports than the average should not be rewarded for doing so.*

RECOMMENDATION 14.5

The Australian Government should not provide additional funding to jurisdictions that do not participate in one of the arrangements spelt out in recommendations 14.3 and 14.4.

Chapter 15 Workforce issues

RECOMMENDATION 15.1

The NDIA should work with providers to identify likely areas of workforce shortages, and strategies to address them.

RECOMMENDATION 15.2

The Australian Government should attract further workers into disability support:

- by marketing the role and value of disability workers as part of the media campaign launching the creation of the NDIS*
- promoting careers in disability support in career advice to school leavers and job seekers*

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- *by providing subsidies for the training of disability workers*
 - *by encouraging the take-up of self-directed funding arrangements involving the flexible employment of people in the community, and not just people affiliated with specialised providers*
 - *making people aware of the potential to use mainstream services as substitutes for specialised services*
 - *through immigration of support workers, but only in the event that acute and persistent shortages occur, and drawing on the lessons from the Canadian Live-In Caregiver program and other similar programs.*

RECOMMENDATION 15.3

Drawing on the system currently in place for working with children, Australian governments should ensure that police checks and other safeguards should be implemented that target the risk of abuse of vulnerable people with disabilities, and cover those relevant workers for a given period, rather than for a particular job.

RECOMMENDATION 15.4

In order to sustain informal care and support, the NDIS should:

- *assess carer needs as well as those of people with disabilities (recommendation 7.6) and, where needed, use the assessment results to:*
 - *refer people to specialist carer support services including the ‘Carer Support Centres’ recommended in the Commission’s parallel inquiry into aged care and to the National Carers Counselling Program*
 - *include the capacity for accessing counselling and support services for carers as part of the individual support packages provided to people with a disability*
- *assess the best training and counselling options for carers of people with disabilities as part of the NDIS research and data collection function.*

RECOMMENDATION 15.5

- *The Australian Government should amend s. 65(1) of the Fair Work Act 2009 to permit parents to request flexible leave from their employer if their child is over 18 years old, but subject to an NDIS assessment indicating that parents are providing a high level of care.*
- *After monitoring the impacts of this legislative change, the Australian Government should assess whether it should make further changes to the Act to include employees caring for people other than children.*

Chapter 18 A national injury insurance scheme (NIIS)

RECOMMENDATION 18.1

State and territory governments should create insurance schemes that would provide fully-funded care and support for all catastrophic injuries on a no-fault basis, and that would collectively constitute a National Injury Insurance Scheme (NIIS).

The NIIS would include all medical treatment, rehabilitation, home and vehicle modifications and care costs, and cover catastrophic injuries from motor vehicle, medical (excluding cases of cerebral palsy associated with pregnancy or birth, which would be covered by the NDIS), criminal and general accidents. Common law rights to sue for long-term care and support should be removed, though access to damages for pecuniary and economic loss, and general damages would remain.

State and territory governments should develop a national framework in which the separate schemes under the NIIS would operate.

RECOMMENDATION 18.2

State and territory governments should fund catastrophic injury schemes from a variety of sources including:

- *compulsory third party premiums for motor vehicle accidents*
- *a small surcharge on passenger tickets of all rail transport regulated under the new rail safety national laws*
- *a modest levy on domestically registered passenger carrying vessels regulated under the Australian Maritime Safety Authority (as the proposed new safety regulator for all commercial shipping in Australian waters by 2013). A small levy on existing state-based registration for privately owned 'pleasure' vessels*
- *a small increase in municipal rates for catastrophic injuries arising for victims of crime and from other general accidents (excluding catastrophic medical accidents)*
- *contributions from the insurance (including self-insurance) arrangements of hospitals and the medical indemnity premiums of physicians for medical treatment accidents:*
 - *If the removal of the insurance costs associated with the lifetime care and support of cerebral palsy cases does not sufficiently outweigh the additional costs associated with the inclusion of no-fault catastrophic injuries, then any premium increases should be gradually phased in. State and territory governments should fund any gap between premium income and catastrophic medical injury claims.*

– Regardless, the Australian Government subsidy schemes should continue to safeguard the affordability of medical indemnity cover.

State and territory governments should fund NIIS claims directly to the extent that they choose not to fund catastrophic general accidents on a no-fault basis through local council rates.

The Australian Government should fund any catastrophic aviation accidents, until specific sources of funding related to accident risks are established.

RECOMMENDATION 18.3

The NIIS should be structured as a federation of separate state-based catastrophic injury schemes, which would include:

- consistent eligibility criteria and assessment tools, and a minimum benchmarked level of support*
- consistent scheme reporting, including actuarial valuations and other benchmarks of scheme performance*
- shared data, cooperative trials and research studies*
- elimination of any unwarranted variations in existing no-fault schemes*
- a national reinsurance arrangement to pool coverage of high risks among the separate schemes.*

State and territory governments should create a small full-time secretariat to further the objectives outlined above. The NIIS and the NDIA should work closely together.

RECOMMENDATION 18.4

State and territory governments should consider transferring the care and support of catastrophic workplace claims to the NIIS through a contractual arrangement with their respective workers' compensation schemes, drawing on the successful experiences of Victoria's Worksafe arrangements with the Transport Accident Commission.

RECOMMENDATION 18.5

The NDIS should fund all cases of cerebral palsy associated with pregnancy or birth, and that meet the NDIS eligibility criteria. Common law rights to sue for long-term care and support needs for cerebral palsy should be removed, though access to damages for pecuniary and economic loss and general damages would remain, where negligence can be established.

RECOMMENDATION 18.6

The initial priority for the NIIS should be the creation of no-fault motor accident insurance schemes, which should provide services and support for catastrophic injuries arising from motor vehicle accidents in all jurisdictions by 2013. Other forms of catastrophic injury should be covered by at least 2015, with funding commencing by 2014 to establish a funding pool prior to any claims.

RECOMMENDATION 18.7

An independent review in 2020 should examine the advantages and disadvantages of:

- *widening coverage to replace other heads of damage for personal injury compensation, including for pecuniary and economic loss, and general damages*
- *widening coverage to the care and support needs of non-catastrophic, but still significant, accidental injuries, except where:*
 - *the only care needed can be provided by the health sector*
 - *the injuries arose in workplaces covered by existing workplace insurance arrangements*
- *the expert panel for medical treatment injury, evaluating the timeliness of its decisions, its independence and cost-effectiveness*
- *merging the NIIS and the NDIS.*

Chapter 19 Implementation

RECOMMENDATION 19.1

In the second half of 2011 or early 2012, the Australian Government and the state and territory governments should, under the auspices of COAG, agree to a memorandum of understanding that sets out an in-principle agreement:

- *that the NDIS should commence in stages, with:*
 - *regional rollouts undertaken in several states and territories commencing in July 2014*
 - *full national coverage in 2015-16 for some high priority groups*
 - *progressive coverage of all groups in subsequent years, with a fully operational scheme by 2018-19*

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- *to follow the reform timetable for the NIIS specified in recommendation 18.6.*

RECOMMENDATION 19.2

To give effect to recommendation 19.1, state and territory governments and the Australian Government should create:

- *a full-time high level taskforce from participating jurisdictions and an expert project management team to commence work on the detailed implementation of the NDIS, including all transition arrangements*
 - *to be headed by a person with insurance or disability experience who has driven change successfully in a large organisation, appointed with the agreement of all jurisdictions*
 - *with a draft intergovernmental agreement to be prepared for final consideration and agreement by COAG in February 2013*
- *a full-time high level taskforce from all jurisdictions to commence work on the implementation of the NIIS by the states and territories*
- *the NDIA by June 2013.*

RECOMMENDATION 19.3

In the period leading up to the full introduction of the NDIS, the Australian Government should supplement funding under the National Disability Agreement to reduce some of the worst rationing of support services, particularly for supported accommodation and respite.

RECOMMENDATION 19.4

In 2020, there should be an independent public inquiry into the operation of the NDIS and its effectiveness in meeting the needs of people with disabilities. The review should also encompass the review of the NIIS as set out in recommendation 18.7.