

ADACAS Submission
Online lodgement.

Productivity Commission inquiry in the NDIS

Thank you for the opportunity to provide further comment to inform this inquiry. ADACAS welcomes the position paper and is fully supportive of many of the recommendations that it makes. ADACAS has provided a brief response to the recommendations and requests for information in the attached table. In addition ADACAS provides the following comments with regard to the need for and funding of independent advocacy in the NDIS context.

Advocacy

The position paper correctly identifies that independent Advocacy has a role in supporting people with regard to the NDIS. The role is multi-faceted, advocacy organisations:

- provide support to people to assist them to understand the scheme and navigate entry and pre-planning
- assist people to have their voice heard during the planning process including through attending planning appointments (by phone or face to face) and speaking up on behalf of the participants if required.
- advocate for participants experiencing long delays in getting responses from the agency
- assist people to understand their plans and how they might self-advocate in the implementation of their plan, including developing skills in exercising choice and control
- provide advocacy for people who are seeking a change to their plans because they are not happy with decisions made by the Agency
- support people who are appealing decisions to the AAT
- support people making a complaint to the agency with regard to their interactions with the Agency
- provide advocacy for people who are not happy with the actions of an NDIS funded disability service provider, including assisting them to develop self advocacy skills and exercise choice and control in their choice of provider.

Each of these advocacy actions contributes to improved outcomes for the participant including through

- Ensuring the persons voice is heard in decisions that affect them
- Supporting participants to develop skills in choice and control
- Supporting participants to get plans that meet their needs and increase their capacity to be active community and economic contributors

A strong case can be made for advocacy contributing to the cost effectiveness of the NDIS through the contribution that advocacy makes to client outcomes. Advocate involvement also assists planning meetings to go well, and ensures that all issues are covered in the first

conversation which reduces the likelihood that the participant will need to ask for a review. Advocacy also contributes to efficient processes by assisting with communication between NDIA staff and participants.

In addition ensuring that advocacy is available to people with disability who are not NDIS participants that supports them to resolve issues and continue to function well using mainstream services, has the potential to prevent additional entries to the NDIS, providing a further saving to NDIS costs.

While the funding of advocacy currently sits outside the NDIS, given that advocacy has a significant impact on the NDIS, both in assisting achievement of outcomes and contributing to cost effectiveness, it is appropriate for the Productivity Commission to consider the risks to the NDIS should sufficient advocacy not be available to participants. As the position paper notes, advocacy is currently funded at both the Commonwealth and state level (with the exception of SA), however future advocacy funding is currently very uncertain. The NSW government for instance has signalled its intention to withdraw completely from funding advocacy, other jurisdictions, including the Commonwealth are, or are planning to, review funding for advocacy. This leaves advocacy organisations seeking to provide service in an uncertain environment, which impacts on staff recruitment and retention and other aspects of advocacy service delivery. ADACAS urges the Productivity Commission to make a recommendation with regard to future funding of advocacy such as:

Recommends that the state and territory governments and the Commonwealth commit to sufficient provision of recurring block funding for independent individual advocacy to ensure that NDIS participants and others with disability are able to access advocacy support if they need it. This commitment to a shared responsibility for and funding of independent advocacy should be reflected in the bilateral agreements between each jurisdiction and the Commonwealth.

I understand that the Disability Advocacy Network of Australia has arranged a meeting with staff from the Commission on Monday 24 July to discuss advocacy. I look forward to the opportunity to discuss this submission at that meeting. Thank you for the opportunity to continue to have input to your inquiry. If we can be of further assistance please contact me

Yours sincerely

Fiona May
CEO

Productivity Commission – NDIS Costs

Draft recommendations and information requests

ACT Disability Aged and Carer Advocacy Service response
July 2017

ISSUE	TYPE	NUMBER	PRODUCTIVITY COMMISSIONS' COMMENT	ADACAS response
Scheme eligibility	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.	The agency should only do this if they are informed by the views of the participant in making this decision. Participants should not be expected to have undertaken research into the legislation without support. The current access forms do not provide for this information.
Scheme eligibility	INFORMATION REQUEST	3.1	<p><i>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 an access. Feedback is sought on the extent to which the list:</i></p> <ul style="list-style-type: none"> • <i>reduces the burden on families to demonstrate that their child will benefit from early intervention and/or provides certainty that support will be provided</i> • <i>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)</i> • <i>may be contributing to supports being provided to children who are unlikely to benefit from such supports</i> • <i>may be discouraging or inhibiting exit from the scheme.</i> 	Families and individuals find the lists very helpful (anxiety reducing) as they provide certainty for some. Support retention.
Scheme eligibility	INFORMATION REQUEST	3.2	<p><i>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:</i></p> <ul style="list-style-type: none"> • <i>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?</i> • <i>Is there any evidence that people who do not meet the disability requirements are entering the scheme under List A?</i> 	This significantly reduces burden of application process on individuals and families with listed disabilities. Support retention.
Scheme Supports	INFORMATION REQUEST	4.1	<p><i>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?</i></p> <p><i>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?</i></p>	

Scheme Supports	INFORMATION REQUEST	4.2	<i>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?</i>	ADACAS is of the view that it is not appropriate for the LAC to have delegations for planning decisions. There is a conflict of interest for the LACs who also have roles in supporting pre-planning and plan implementation to also have delegation to approve plans. The current process of having LACs doing some of the planner functions is already conflicted enough without this additional responsibility. In our view responsibility for all aspects of plan creation, including tasks currently assigned to LACs, should rest with NDIA staff. This would ensure that the decision makers are fully informed about the individual circumstances of each participant, have the opportunity to meet the participant and receive first hand information to inform their decision making. It would also ensure that the role of LACs as initially envisaged by the productivity commission, is able to be realised. The LACs capacity to contribute to ILC outcomes for instance, is currently significantly impaired because of the requirement that they focus on planning meetings.
Scheme Supports	RECOMMENDATION	4.1	The National Disability Insurance Agency should: <ul style="list-style-type: none"> • 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. 	fully support
Scheme Supports	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.	fully support
Boundaries and interfaces with the NDIS	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.	fully support
Boundaries and interfaces with the NDIS	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.	fully support, see also additional comments about continuity of support for advocacy services. Advocacy is a key service that sits outside the NDIS that continues to experience considerable funding uncertainty. In some areas current funding levels for individual advocacy are already too low to meet demand for support. ADACAS has experienced a significant increase in demand for advocacy associated with NDIS related matters. Support the need for greater transparency and reporting around boundary issues, particularly boundaries with the health and education systems.
Boundaries and interfaces with the NDIS	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.	fully support
Boundaries and interfaces with the NDIS	INFORMATION REQUEST	5.1	<i>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.</i>	

Provider readiness	RECOMMENDATION	6.1	<p>The Australian Government should:</p> <ul style="list-style-type: none"> • 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. <p>The body tasked with price regulation for scheme supports should:</p> <ul style="list-style-type: none"> • 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. 	fully support
Provider readiness	INFORMATION REQUEST	6.1	<p><i>In what circumstances are measures such as:</i></p> <ul style="list-style-type: none"> • <i>cross government collaboration</i> • <i>leveraging established community organisations</i> • <i>using hub and spoke (scaffolding) models</i> • <i>relying on other mainstream providers</i> <p><i>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 adapting these approaches?</i></p> <p><i>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?</i></p>	It is crucial for the NDIS to establish provider of last resort mechanisms, as well as mechanisms for providers to respond to crisis. Current processes for plan reviews due to change of circumstance are lengthy and do not provide for immediate funding of additional services where this is required.
Provider readiness	INFORMATION REQUEST	6.2	<p><i>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?</i></p>	
Workforce readiness	RECOMMENDATION	7.1	<p>The roles and responsibilities of different parties to develop the National Disability Insurance Scheme workforce should be clarified and made public.</p> <ul style="list-style-type: none"> • 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. 	
Workforce readiness	INFORMATION REQUEST	7.1	<p><i>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?</i></p>	
Workforce readiness	RECOMMENDATION	7.2	<p>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.</p> <p>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.</p>	

Workforce readiness	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: <ul style="list-style-type: none"> • 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. 	
Workforce readiness	INFORMATION REQUEST	7.2	<i>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?</i>	
Participant readiness	INFORMATION REQUEST	8.1	<i>Is support coordination being appropriately targeted to meet the aims for which it was designed?</i>	Support coordination in the ACT has been through various stages. Initial plans did not include it and many plans were not implemented as a result. Now that the LACs have commenced in the ACT the NDIA has made it clear that support coordination will be withdrawn for the majority of participants as the LACs should be doing this role in addition to their many other functions. The NDIA's understanding of support coordination is that over time all participants will develop skills so that it is no longer required. This is a simplistic understanding that does not take into account that many people will want and need support coordination on an ongoing basis. For instance, ADACAS is aware of a man living with quadriplegia who self manages very capably but does not wish to spend so much of his time undertaking the coordination functions for his disability supports. These tasks limit his capacity to also undertake paid work, participate in volunteer and other community roles. Support coordination is a reasonable component of his plan so that he can live an ordinary life. Similarly we have some clients where the adult child with disability has had coordination undertaken for many years by older parents. As these parents age their capacity to continue to provide the intensive coordination and monitoring of service decreases and they will need ongoing access to support coordination. The NDIA needs to take a more realistic approach to support coordination recognising that it can play a key role in ensuring sustainability of supports and outcomes for the person with disabilities.
Participant readiness	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.	The e-market place was also subject of a practical design fund project several years ago. The project found that people with disability would prefer an e-marketplace that was not moderated by government but was led by people with disability themselves. The rationale for the government to undertake this role is thin. An e-market place, appropriately set up and run would be welcome however as it is very difficult currently for people to find supports and to make informed choices about service providers
Participant readiness	INFORMATION REQUEST	8.2	<i>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?</i>	Ideally both support coordination and plan management should be available to those that need these supports and the supports should be separate from other service provision. Independence in these roles is very important.
Governance	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.	
Governance	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.	
Governance	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.	fully support

Governance	RECOMMENDATION	9.4	<p>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.</p> <p>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).</p> <p>The Integrated NDIS Performance Reporting Framework should be regularly reviewed by the NDIA and the COAG Disability Reform Council and refined as needed.</p>	fully support
Governance	RECOMMENDATION	9.5	<p>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.</p>	fully support
Governance	INFORMATION REQUEST	9.1	<p><i>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:</i></p> <ul style="list-style-type: none"> • <i>prioritising potential participants with more urgent and complex needs</i> • <i>delaying the transition in some areas</i> • <i>an across the board slowdown in the rate that participants are added to the scheme.</i> <p><i>The Commission is also seeking feedback on the implications of slowing down the rollout.</i></p>	<p>Alternatives to slowing down the scheme that also improve quality of what is being delivered should also be explored. For instance - if the planning and annual review processes were improved then this would increase efficiency.</p>
Funding arrangements	INFORMATION REQUEST	10.1	<p><i>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.</i></p> <p><i>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?</i></p>	
Funding arrangements	INFORMATION REQUEST	10.2	<p><i>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:</i></p> <ul style="list-style-type: none"> • <i>estimating the proportion of cost overruns that the Australian and State and Territory Governments are responsible for and allocating funding responsibility accordingly</i> • <i>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.</i> 	
Funding arrangements	RECOMMENDATION	10.1	<p>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.</p>	
Funding arrangements	RECOMMENDATION	10.2	<p>The Australian Government should reconsider the staffing cap on the National Disability Insurance Agency, given the importance of developing internal capability and expertise.</p>	fully support
Funding arrangements	INFORMATION REQUEST	10.3	<p><i>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.</i></p>	
Funding arrangements	RECOMMENDATION	10.3	<p>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.</p>	