



JFA  
Purple Orange

**Submission**  
**to the Productivity Commission in**  
**relation to its Position Paper on**  
**National Disability Insurance Scheme**  
**(NDIS) Costs**

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## **About the Submitter**

JFA Purple Orange is a non-government, social profit organisation. Anchored on dialogue with people living with disability, their families, service providers, government and other stakeholders, we seek to identify policy and practice that has the prospect of advancing peoples chances of a good life. Our work is anchored on the principles of Personhood and Citizenship. Our work includes research, evaluation, capacity building, consultancy, and hosted initiatives.

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## **1.0 Introduction to This Submission**

JFA Purple Orange welcomes this opportunity to make a further submission to the Productivity Commission's current enquiry into NDIS costs.

As stated previously, 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.

The NDIS is an opportunity for Australia to become a world leader in social welfare reform. However, many a good idea has been compromised in its implementation.

We say this again because parts of this submission are directly drawn from our previous submission. We have included these because we do not see anything in the draft report that echoes them and we want to persevere on matters that we think might be critical to the health and success of the NDIS.

To punctuate this point, we note:

*A good idea is at its most vulnerable during implementation*

We have structured this submission to align with that of the Productivity Commission's Position Paper, released June 2017, that sets out draft findings, draft recommendations, and information requests.

## 2.0 How is the scheme tracking

### 2.1 In response to 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).*

Our concern remains that the current approach to Scheme costs is based on conventional service patterns which are usually marked by people in group situations and in activities that don't bring them into valued roles in community life.

We believe there needs to be a systematic reworking of the Scheme costs, anchored on understanding the costs of genuinely being involved in community life and the economy and [that the NDIS costing model has a centre of gravity that focuses on understanding and closing the gap in a person's life chances, as opposed to measuring a person's impairment per se.](#)

We refer the Commission to the narrative in section 9 of our previous submission, and assert again the following recommendation:

#### **Recommendation**

That the NDIS review its costing model, to ensure it focuses on the costs of genuinely lifting people's life chances and take-up of valued roles, as opposed to a narrower focus on the costs of functional deficit

### 2.2 In response to 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.*

It is important that the success of the scheme is properly measured according to closing the gap between where people are now and the goal of participation in community life and the economy.

We again refer the Commission to the Citizenship model<sup>1</sup> as a way of framing how to plan for and measure improvements in a person's life chances.

We further note the importance of consistency between outcome measures and assessment measures. It is not coherent to measure outcomes (the hoped-for situation) in one way and undertake assessment (the current situation) in another. For example, the only reason to ask if a 12-year old child living with Down Syndrome can climb a ladder (as is asked in the current NDIS assessment) is if a key outcome of the NDIS is that more 12-yr old children with Down Syndrome can climb ladders. It isn't.

NDIS outcomes relate to choice and control, and participation in community life and the economy. Climbing a ladder is not a key ingredient in the achievement of these outcomes, so why would we expend precious Scheme resources asking it.

Therefore, on the basis of the above narrative we make the following recommendation:

**Recommendation**

That the NDIS assessment instrument(s) be identical to the instrument(s) underpinning outcomes measurement

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<sup>1</sup> Williams, R. (2013) *Model of Citizenship Support 2<sup>nd</sup> Ed.* Julia Farr Association, Adelaide

## 3.0 Scheme Costs

### 3.1 In response to 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?*

As alluded to in other parts of this and our previous submission, the context for *reasonable and necessary* should be the imperative to close the gap between the person's current circumstances and genuine participation in community life in the economy. For example, if the main issue for a 25-year old man with significant intellectual disability is that he is unemployed (or otherwise living on a low income due to attendance at an Australian Disability Enterprise), then one would want to understand the reasonable and necessary cost of achieving genuine waged employment. Through the good practice of Australian agencies such as Job Support (<http://jobsupport.org.au/main/>) successfully placing adults living with significant intellectual disability into sustainable mainstream waged employment, there is data available to provide an initial evidence-based benchmark of the reasonable and necessary costs involved.

Therefore, on the basis of the above narrative we make the following recommendation:

#### **Recommendation**

That the criterion of 'reasonable and necessary' be reframed in the context of closing the gap between the participant and valued roles in mainstream community life

### 3.2 In response to 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?*

It is clear that the current NDIA arrangements, coupled with the timeframe and volume requirements of the bilateral agreements, are placing significant pressure on the NDIA planning process and planners.

Given the current expectation that Local Area Coordinators (LACs) undertake some work in relation to planning and related front-end activities in the NDIS participant pathway, it is understandable why one might contemplate whether the NDIA should delegate plan approval functions to LACs, to help ease the downstream burden.



We recommend extreme caution, because this will shift the problem but not solve it, and may make it worse.

The first problem would be that it would further blur the boundaries between the roles of an LAC and the NDIA planner. Such blurring is not a recipe for efficient and effective use of NDIS resources.

The second problem is that it will undermine the capacity for LACs to undertake the other important parts of their role which are to assist NDIS participants to get relevant information and connect into mainstream community opportunities and membership. South Australia's 1990s implementation of the Options Coordination role provides a cautionary tale of how in this mix of roles reactive gatekeeping tends to trump proactive community development and linkage.

JFA Purple Orange also have personnel who have extensive experience of LAC-type roles in other jurisdictions and who can testify to the difficulties inherent in a role carrying a mix of community development and linkage work plus funds gatekeeping.

This problem is exacerbated by the apparent current tendency for the NDIA to award LAC contracts to agencies who do not have track records of community development and linkages in the areas the LAC contract applies. An example of this would be Feros Care, a Queensland-based aged care agency who has secured the LAC contracts for the ACT and specific metropolitan and country areas of South Australia. In a role carrying competing elements between community development and funds gatekeeping, if an LAC service has shallow roots in terms of community knowledge and community embeddedness, it is more likely to find its attention drawn to the demands in relation to funds gatekeeping.

Given the current problems that have led to the Productivity Commission asking the question, *Should the National Disability Insurance Agency have the ability to delegate plan approval functions to Local Area Coordinators*, we assert that both the planner and the LAC roles be reconceived, to separate the work associated with community development and linkages and the work associated with Scheme gatekeeping.

We assert there is a viable and more effective alternative.

We refer again to our 2015 report on planning<sup>2</sup> commissioned by the National Disability Insurance Agency. In that report we describe the mismatch between the design of the planning role at the NDIA and the planning elements the disability community prefers. As discovered through an extensive consultation, people's preferences are to plan in a timeframe that suits them, using a methodology they find accessible, and undertaken with someone they trust. Through no fault of their own, it is very difficult for NDIA planners to meet this brief because they are running a common methodology in a tight timeframe and do not have the longitudinal connection with NDIS participants on which a sustainable and trusting relationship can be built.

The logical way to avoid this is that the planning should be pushed upstream in the NDIS participant pathway, to arrangements where the NDIS participant is able to have more control and choice about the timeframe, the methodology and the planning partner. This would mean that by the time the

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<sup>2</sup> JFA Purple Orange (2015) *About pre-planning: An advisory report to the National Disability Insurance Agency (NDIA) on how people can best be assisted to prepare for the NDIS*

NDIS participant meets the NDIA planner, they have already thought through and set out their plan. This means that their meeting with the NDIA planner is less about *planning* and more about *negotiation*, where the NDIA planner, as the gatekeeper of NDIS funds, tests the participant's draft plan against:

- the Scheme's values in relation to
  - control and choice
  - participation in community life and the economy
  - long term assurance of funds availability to the disability community (Scheme financial sustainability)
- the reference package cost of 'reasonable and necessary'
- the extent the participant's plan elements have a logical connection to the participant's current circumstances

If the NDIA planner and NDIS participant resolve these considerations, the planner can sign off the plan so NDIS funds can flow.

This creates a much cleaner relationship between the participant and the planner; it does not require the planner to know the participant well, and focuses the planner role on being a gatekeeper for NDIS resources.

For this to work well, the participant would need to have an early signal about the ballpark funding that might be available from the NDIS. In essence, this means that there would need to be an initial contact between the participant and an agent of the NDIA to signal the possible level of funding that might be available. This is not a guarantee of funding, it is simply a signal to assist the person to frame their planning. This is no difference to the budget signals that most people need in their daily lives for doing grocery shopping or planning a vacation or other larger purchase. It is difficult for anyone to plan effectively without having some idea of budget parameters.

Armed with this signal about possible budget, the NDIS participant is then better able to think through their goals, their options for making progress, and how NDIS funding might assist.

So far in this analysis, two role elements have been identified for the NDIS agent; *signal* and *negotiate*.

The third role element is downstream in the participant pathway, once funds have flowed and supports have been delivered. This involves an engagement between the NDIS participant and the NDIA to *review* the extent that the arrangements helped the person to advance the life chances. In other words, did the NDIS investment produce a return in terms of the NDIS participant's involvement in community life and economy? The product of this engagement is outcome data that can inform the NDIA's understanding of the relationship between different types of investment and the impact on Scheme outcomes. In turn, this involves the actuary model and updates the accuracy of the reference packages for reasonable and necessary supports.

With the NDIS participant pathway reframed in this way, there are three key role elements for the NDIA agent:

1. ***Signal***
2. ***Negotiate***
3. ***Review***

If the pathway were reframed in this way, this would resolve the conundrum of the interface between the LAC and the NDIA planner, because it replaces it. The NDIA planner role, together with the portion of the LAC role that relates to the NDIS pathway, are merged into a new single role which for the purposes of this analysis might be termed the *NDIS Agent*.

We argue that an *NDIS Agent* undertaking the key role elements of *Signal*, *Negotiate* and *Review*, it is a much simpler and clearer approach, and better suited not just to the current implementation challenges but also to the longer term efficiency of the NDIS pathway.

We also argue that the creation of an *NDIS Agent* in turn equips the LAC role with a much sharper and less compromised focus on community development and linkages. This in turn reinforces the importance and benefit of selecting local, well-established, deeply embedded, highly knowledgeable community agencies to undertake the LAC work.

This arrangement also sets up the opportunity to ensure the participant has genuine choice over where they get their planning assistance from. Noting that such assistance often includes a blend of information, peer connection and capacity-building, this sets the scene for the NDIS to invest in the role and value of DSOs - agencies that provide information, peer connection and capacity building, and whose role was contemplated in the original Productivity Commission work in 2011.

In this way, there can be a clear separation between three important roles:

- *NDIA Agent*: managing participant access to NDIS funds, and undertaking a specialist role in negotiating arrangements that provide the best possible fit between participant aspirations and the NDIS parameters
- *LAC*: assisting people living with disability with the information and introductions they need to take up active valued membership of community life
- *DSO*: assisting people living with disability to build capacity and connections

We further note that with systematic investment in the work of DSOs, they can undertake LAC role as identified above.

Therefore, on the basis of the above narrative we make the following recommendation:

#### **Recommendation**

That the NDIS design and implementation be reframed around the three key roles of NDIA Agent, LAC and DSO

We note this reframing will also give the opportunity to provide further clarity on who can assist NDIS participants with service brokerage and support coordination (ie the pathway work that takes place between **Negotiate** and **Review**).

### 3.3 In response to 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.*

We support the first three bullets, otherwise they might be regarded as symptom management within a suboptimal system.

In relation to the 4<sup>th</sup> bullet, and given the findings of the pre-planning report cited earlier, local capacity for pre-planning could be achieved by investing in DSO availability across all Australian communities, as a valid resource for pre-planning. This reduces the pressure to have LACs on the ground 6 months prior, unless of course LAC contracts are released to DSO agencies, which removes the pressure altogether because such agencies are already embedded in their communities and would be immediately available to NDIS participants.

#### **Recommendation**

That the NDIS design and implementation be adjusted to include investment in DSOs so that there is a resource for pre-planning available in all Australian communities.

### 3.4 In response to 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.*

We do not support this recommendation, because if implemented it will drive up the numbers and costs of planners within the NDIA.

As set out earlier in this report, there are already networks of expertise in community that can assist people living with different types of disability to develop a potent plan. DSOs are a key location for this type of expertise. Therefore, our recommendations above apply.

## 4.0 Boundaries and interfaces with the NDIS

### 4.1 In response to 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 provision of information, linkages and capacity building is critical to the success of the NDIS.

We support this recommendation, inasmuch as the size of the ILC investment needs to increase as soon as possible. However, given the critical role of information linkages and capacity building, and the importance of investing in community agencies that can deliver these types of service, we recommend that the current limit of \$131 million be reviewed and cast as a higher figure to better reflect the importance of the work, and that this include a separate strategic investment in the availability of DSO activity including peer support networks.

#### **Recommendation**

That the NDIS full scheme budget for information linkages and capacity building be reviewed and increased from its current level of \$131 million

#### **Recommendation**

That the NDIS include a separate national strategic investment in DSO activity, including peer support networks

### 4.2 In response to 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.*

We support this recommendation.

### **4.3 In response to 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.*

We support this recommendation.

## 5.0 Provider Readiness

### 5.1 In response to 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.*

It is interesting this draft recommendation has emerged in the context of provider readiness, given our view that this is a participant readiness issue.

The draft recommendation doesn't go far enough regarding the imperative to mitigate the unintended consequences of the current fixed-price market. There is a need to invest in a budget mechanism that gives participants a breadth of choice about pricing and on the basis that they absorb the quantity trade off so that overall budget does not have inflationary pressure.

This places appropriate emphasis on the need to establish a clear context about reasonable and necessary support in terms of closing the gap in life chances.

We refer the Productivity Commission to an excerpt of the content of our previous submission, attached as an appendix.

Further to that content, we believe the draft recommendation should be strengthened to emphasise the urgency of the imperative to deregulate prices, and that the solution needs to include significant investment in participant readiness, as per our recommendations above in relation to investment in DSOs and peer networks.

## Recommendation

That the body tasked with price regulation for scheme supports the NDIS should undertake that work with a focus on the urgent imperative to deregulate prices to support participant control and choice, and that the work should include, or align with, NDIS national investment in the availability of DSOs and peer networks to assist people living with disability to build capacity as NDIS market participants

## 5.2 In response to Information Requests 6.1 and 6.2

*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?*

*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?*

At the heart of this issue is the extent of resources that are available to a person in their community. This includes options for formal supports, including specialist services, and also options for informal supports, such as neighbours, friends and favours. Because of the critical role that community membership plays in people's lives, any thin market needs to be tackled from the point of view of how to build local community capacity.

Key to this is understanding and building on the strengths and assets that already exist in that thin market. Because of the nature of thin markets, these strengths and assets may not be readily apparent, and can therefore be overlooked in favour of other less sustainable (yet often more expensive) interventions.

This approach to community development is typified in methodologies such as Asset Based Community Development (ABCD).



## **Recommendation**

That any investment in thin markets include strengths-based community development

We also note there are good stories from individualised funding models elsewhere where a devolved local budget has been used to design a local response in a thinner market by calling on support elements that typically wouldn't be contemplated in less thin markets. The creative solution that emerges can often be a robust anchor points for community membership and cooperation.

Finally, we note that in some thin markets, for example remote communities, NDIS investment may need to look beyond the individual budget and invest in the community. In a community that has very little, the person who has more, for example because of NDIS individual resources, might be vulnerable to an unplanned redistribution of resources, or at the very least may be seen as lucky and not the same as everyone else, and be inadvertently excluded from local community life as a result.

In such situations, a community investment may be a stronger option. For example, if a remote community has two persons living with severe disability where budget expenditure on laundry white goods is being contemplated, it may be better to invest in a community laundromat. This will help meet the needs of the persons in question, but also constitutes an investment in that community, and may even serve to raise the valued role in community life of those two persons.

## 6.0 Workforce Readiness

### 6.1 In response to 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*

We support this recommendation, in the context of the other comments and recommendations we have made in this submission. The magnitude of workforce growth should not be overestimated, and should be considered in the context of strategy and investment in assistive technology, community connection and inclusive mainstream services.

By way of example we refer you to our response below to information request 7.2.

### 6.2 In response to 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?*

It is important the workforce strategy is a good match with what people seek in their support workers. Given the NDIA's stated commitment to co-design methodologies, we suggest there be a joint working group and that this group includes membership by people living with disability and their families, so that the subsequent holistic workforce strategy genuinely reflects an informed demand perspective.

In addition, we refer the Productivity Commission to recent research we undertook, shortly to be published, which people living with disability and their families consider to be the characteristics of good support workers. Interestingly, the presence of a qualification in disability support was not

considered a high priority by the respondent group (over 250 people). Instead, the top five characteristics were:

- reliable (showing up on time)
- friendly (being a pleasant person to know)
- attentive (being a good listener)
- empowering (Assisting the person to do as much as they can for themselves)
- flexible (being able to adjust the support in the moment in order to fit with the person's goals)

This is an example of how the NDIS participant community is a potent source of information critical to successful workforce strategy, and can help inform a workforce strategy that attracts the types of frontline support workers who can genuinely uphold the NDIS values of *control and choice* and *participation in community life and economy*.

#### **Recommendation**

That the development of a holistic workforce strategy be undertaken by a co-design process including the perspective of people living with disability and their families, and anchored on those workforce characteristics most likely to uphold the NDIS values of *control and choice* and *participation in community life and economy*

### **6.3 In response to 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.*

This is important, but should also include the collection and publication of information on the return on investment, in terms of the types of support that best deliver control and choice and participation in community life and economy.

### **6.4 In response to 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.*

There needs to be caution about the use of family members to be paid for providing supports. This can make family relationships complicated and can lead to the commodification of the person within those relationships. It can create perverse incentives that bias dependence in order to defend the family income level that is dependent on payments for providing supports to a family member. This can lead to the NDIS participants becoming trapped in a particular family economy and at the expense of that person genuinely advancing their life chances.

Payment of family members for providing supports should be reserved for the most exceptional and rarest of circumstances, where there is no defensible alternative in the short term. However any such arrangements should be time limited, and paralleled by an aggressive investment in alternative arrangements.

#### **Recommendation**

That family members living at the same address as the NDIS participant not receive payments as that person's paid support workers bar the most exceptional and unusual circumstances and only in the short term

### **6.5 In response to 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?*

The NDIS was conceived on the values of *control and choice* and *participation in community life and economy*. This suggests that services should be understood and designed in ways that uphold these values. Traditionally, *respite* in the disability funding and service industry is typically translated to models of support that are often quite different from the mainstream ways that people create a sense of *respite* in their own daily lives, for example vacations, sport and recreation, relaxation, etc.

This is not to say that formal disability respite supports should not be a valid choice for NDIS participants and their families. However it is important that *respite* is understood as broadly as possible, including the opportunity for NDIS participants and their families to achieve respite in mainstream ways.

We refer the Productivity Commission to an independent evaluation we undertook several years ago of a small initiative that gave a group of respite users more choice over their respite service. Prior to the initiative, the families received respite in one way only, as a formal disability support service delivered either at the family home or at a dedicated service venue.

The initiative gave each family an individual budget to the value of the formal supports they were using, and families had a broader choice about how the funds were used to deliver the goal of respite.

As a result, the use of formal disability respite supports dropped from 100% to around 45%, in favour of a much broader range of choices including ordinary mainstream community and recreation activities. Interestingly some of the families used the funding to achieve respite without the person living with disability being separated from the family. This is quite different from current respite arrangements which typically see the person living with disability separated from the rest of the family for the duration of respite.

These findings were part of an evaluation report<sup>3</sup> that revealed how the establishment of a broader choice in relation to respite delivered gains in a number of other ways, including:

- increased satisfaction with service agency
- increased time with friends
- increased satisfaction with support quality
- increased choice and control
- increased hope about the future
- reduced perceived impact of providing unpaid personal support
- increased understanding about how to personalise supports
- increased involvement in community life
- increased focus on longer-term plans

#### **Recommendation**

That NDIS funding for respite be undertaken in ways that provide the broadest possible choice to the NDIS participant and family about how respite is achieved, including options beyond formal respite services

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<sup>3</sup> Fidock, A. and Williams, R. (2013) *Evaluation of Project Transformation of Cara Outcomes Packages to Individualised Funding (Phase 2)* Julia Farr Association, Adelaide

## 7.0 Participant Readiness

### 7.1 In response to 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.*

We support this, and we reference our 2013 report<sup>4</sup>, commissioned via the NDIS Practical Design Fund, which we understand was the original stimulus for contemplating an eMarket platform.

The report sets out a range of user requirements for an online eMarket platform, based on four main themes: Find It, Share It, Buy It, and Manage It. We recommend that the eMarket be commissioned in line with the contents of the 2013 report.

#### **Recommendation**

That the NDIS eMarket be commissioned in line with the contents of the 2013 eMarket report prepared by JFA Purple Orange

### 7.2 In response to 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?*

We refer to our extensive commentary earlier in this submission, in sections 4.2, 4.3, 4.4, and 5.1, in relation to the potency of DSO roles and how they relate to the roles of an LAC and NDIA planner.

There is a growing body of evidence signalling the potency of DSO activities, including peer supports, in not only enhancing the NDIS participant's experience through the NDIS pathway, but also more broadly in terms of capacity building and connection into mainstream community opportunities and valued roles. This in turn is likely to have a downward pressure on future demands on the NDIS.

We also note that maximising the use of DSOs in ILC will help reduce the risks and role conflicts downstream in terms of service brokerage and coordination.

From the above, we consider there to be considerable capacity and potential within DSOs and comparable other community agencies, in relation to the LAC work in preplanning, information sharing, capacity building and community linkages.

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<sup>4</sup> JFA Purple Orange (2013) *NDIS eMarket: user-defined features for an eMarket to assist National disability insurance scheme participants and others to connect to support agencies and other suppliers*

In terms of barriers to entry for intermediaries, the main issue is managing potential conflict of interest.

To explore the issues, we focus on the basic economic equation:

### **Demand = Supply**

Our view is that any agency based in the demand sector should not be involved in the supply of disability supports. Otherwise, this would compromise their role in assisting people to find a voice to understand information and to make choices.

Similarly, any agency based in the supply sector, should not be involved in the demand sector, because the same conflict is created.

It can potentially become complex when one considers the middle part of the equation, the  $=$ . This is the land of intermediaries. Agencies working in the demand sector can move into this intermediary space if they are assisting the person to make choices and resolve their suppliers. This might constitute the intermediary roles sometimes termed the *plan coordinator* and *support broker*.

Agencies working in the supply sector can also move into this intermediary space if they are providing coordination of supports that have already been chosen. This might include supports provided by that supply agency, along with those of other suppliers. This might constitute the intermediary role sometimes termed the *support coordinator*.

Therefore, the key issue is the nature of the intermediary work. If it includes making choices about who might provide the supports, and then this work should not be undertaken by any agency involved in the provision of those supports.

Therefore we recommend that the intermediate role be unpacked and sourced into intermediary roles that are an extension of the demand sector as separate from intermediary roles that are an extension of the supply sector. This creates a simple barrier to entry, where if you are involved in one you cannot be involved in the other.

#### **Recommendation**

That the range of NDIS intermediary roles be clearly mapped according to whether in each case they constitute an extension of supply sector roles or an extension of demand sector roles, with a clear barrier to entry between the two

## 8.0 Governance

### 8.1 In response to 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.*

We support this, conditional on the reporting including how the NDIA uses the information to evolve the NDIS in line with its underlying values.

#### **Recommendation**

That in its public reporting, the NDIA reports on how it is using data from plan reviews and outcome measures to evolve the NDIS to better deliver on its underlying values

### 8.2 In response to 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.*

We support this recommendation, emphasising the importance of a co-designed approach, involving the perspective of NDIS participants and their families, in developing the outcomes framework.

To provide greater coherence between people's circumstances entering the NDIS and measurement of subsequent return on investment, we refer to our earlier remarks about the importance of the outcome measurement framework being identical to the assessment framework, and being anchored on measuring the gap between a person's circumstances and ordinary valued life chances.



### 8.3 In response to 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.*

We support this recommendation. Every decision needs to stand up to scrutiny in terms of the three main outcomes of the scheme: *control and choice, participation in community life in the economy, and assurance of sustainability.*

There needs to be a co-designed approach to monitoring and review of this.

### 8.4 In response to 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.*

Given the current difficulties in scheme design and implementation, especially those brought about by the contents of the bilateral agreements, we think there is merit in NDIS implementation slowing down. This is because we are concerned that the Scheme may develop less helpful features that are out of step with the Scheme's values and which, once 460,000 participants are enrolled will be very hard to change. This crystallisation will profoundly compromise the hoped-for benefits of the NDIS.

However, a slowing down could deliver a significant disadvantage and frustration to potential NDIS participants who currently are underserved or unserved in current state and territory arrangements.

Therefore, we only support a slowing down of implementation on the condition that there is no material disadvantage to those who have to wait longer to join the Scheme.

Ways to provide mitigation could include states and territories, with corresponding funding support from the Commonwealth in line with the original timelines of the bilaterals, make the following commitments:

1. to running individualised budget mechanisms for those people living with disability who will have to wait longer to join the NDIS
2. giving the above people priority access to local support mechanisms such as peer networks
3. giving the above people priority attention in government mainstream services in line with the National Disability Strategy

## 9.0 Funding Arrangements

### 9.1 In response to 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?*

The arrangement should be one that maintains the keenest involvement of the states and territories in insuring their citizens are enjoying the full benefits of the NDIS. If the proportionate costs borne by states and territories falls over time, arguably their advocacy for their citizens could reduce accordingly.

### 9.2 In response to 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*

We believe the option the Productivity Commission favours should be whichever option best advances and upholds the three goals of the Scheme.

### 9.3 In response to 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.

It is important that whatever option is selected needs to reflect the *assurance* nature of the scheme and not operate in a way that creates a rationing mechanism instead of an insurance mechanism.

#### 9.4 In response to 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.*

We **oppose** this recommendation.

We refer the Productivity Commission to our narrative earlier in this submission on the opportunity to make greater use of the community sector, and DSOs in particular, to change the way the planner role is understood at the NDIA. This in turn can be expected to reduce staffing pressures at the NDIA.

In particular we note that the Australian community has capacity and expertise across a wide range of demographics in relation to disability. Instead of attempting to build specialist capacity in these areas within the NDIA, we think it makes more sense to invest in ways that leverage existing community expertise.

#### 9.5 In response to 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.*

We support this recommendation. In-kind arrangements should be removed as soon as possible as they are creating both a material disadvantage and a value disadvantage for a large number of NDIS participants. It is not reasonable to assert that an NDIS participant should have a reduced choice, or a lower dollar-value package, simply because of the service setting they happened to be in when the bilateral agreement was struck.

Also, these in-kind contributions typically relate to congregate models of support, which don't have a good track record of creating sustainable opportunities for meaningful participation in community life and the economy.

#### **Recommendation**

That the bilateral agreements be updated as soon as possible to remove the inclusion of in-kind contributions, because these run counter to the Scheme's values and goals

## **Appendix: excerpt from JFA Purple Orange previous submission re market pricing**

**[section 7 in original submission]**

### **Reframing the approach to pricing, in support of a demand driven diverse market**

First, it is perhaps worth contemplating what we think might be meant by a *market* in the NDIS context.

As set out earlier in this submission, we believe there are three main values intended to underpin the Scheme:

- NDIS participants have greater control and choice
- NDIS participants have greater participation in community life and economy
- NDIS participants have the assurance of a financially sustainable Scheme

If so, it follows that an appropriate NDIS market is one where the demand and supply elements are crafted and connect in ways that uphold and advance these values. As such, a successful market is one that gives the demander control and choice, a range of supply options that offer the prospect of greater participation in community life and economy, and where there is sustainability – an equilibrium between demand and supply that gives the assurance of future availability.

If we think for a moment about productive neighbourhoods, communities, and society, we might similarly contemplate that these notions are anchored on:

- each member of the neighbourhood/community/society having critical authorship of their own lives and choices about the lifestyle they craft themselves
- each member of the neighbourhood/community/society taking up active valued membership of community life, through roles associated with work, recreation, custom, culture, etc
- the neighbourhood/community/society having a dynamic sustainable equilibrium of give-and-take, where members contribute to that community and also draw benefits from that community. ‘Give and take’ is not merely about transactional market habits such as trade, barter and welfare cash provisions, it is about welcome, about human connection, about fellowship, about neighbourliness.

These parallel well with the values underpinning the NDIS.

Given the importance of delivering *transformational* benefits in the lives of NDIS participants, it can therefore be argued that the NDIS market, in its essence, is about supporting NDIS participants to take up active, valued community membership, and all the give-and-take benefits that come with that. This is what most Australians would expect and therefore it should be no different for people living with disability.

It follows that the NDIS market needs to be tooled and regulated sufficiently to deliver this fundamental transformational benefit in the lives of people living with disability.

Unfortunately, current arrangements suggest that the NDIS market in development is not one that is anchored on the fulfilment of *transformational* benefits, but instead is anchored on the fulfilment of *transactional* benefits.

One way to illustrate this problem is to consider the current NDIS practice of fixing set prices for services. For example, the NDIS has a set price of \$42.79 for one hour of daytime, weekday regular support. This means that any provider entering the market wishing to provide that service will be required to do so at that common price.

We imagine the NDIS carries this price-fixing feature to somehow reduce the risk that NDIS participants, most of whom will be new to the craft of commissioning their own supports, might have their relative inexperience exploited by suppliers raising their prices, which in turn creates inflationary pressures in the NDIS. Indeed, we understand that the price-setting feature will be removed once the Scheme, and presumably its market, hits maturity. This suggests there is an assumption that after several years NDIS participants would have figured out what it means to be a potent customer.

Apart from the fact this seems to cut across the Productivity Commission's own analysis in the present study issue paper, we can see two main problems with this approach. First, the NDIS decision to fix prices means there is a significant reduction in control and choice for the NDIS participant. This is because s/he can only choose from a range of providers all offering the exact same price for a particular class of service.

To illustrate, let's assume an NDIS participant has a plan that estimates 15 hours of support each week. Under the current price-fixing arrangement, the only solution available to that participant is to purchase 15 hours of support from one or other of the providers in the market.

Unfortunately, this arrangement omits two main types of choice. The NDIS participant does not have the option to find a cheaper service provider who may be prepared to offer more than 15 hours of support for the budget available. Also, the NDIS participant does not have the option to go to a higher priced supplier, to forego some of the quantity (say, 12 hours instead of 15) because they like the quality that supplier is promising.

It would seem odd to apply such price-fixing to another market setting, for example the market for washing machines. It would be odd for the washing machine market regulator to assert that all washing machines must carry a retail price of \$600. Such a market would attract and retain only those suppliers able to produce a washing machine for that retail price. In the main, the points of difference would be on minor matters, such as appearance, trim, and how much sustainability suppliers are prepared to risk to offer the lowest price.

These arrangements would create a vanilla marketplace, where you can have any washing machine you want as long as it's vanilla. Some people might like vanilla, but not everyone.

This gives rise to the second problem. Leaving the world of whiteware and returning to the NDIS, we argue that the price-fixing approach is creating a vanilla marketplace in the NDIS. As such, it will

favour those service agencies able to manage down their costs sufficiently to offer a vanilla service at a vanilla price.

Typically, these market-favoured agencies will include the larger not-for-profit agencies and an influx of for-profit agencies, who have the financial reserves to endure a period of battle for market share, and who are skilled at the large-scale movement of ancillary staff – people who show up and clean something, move something, etc, and then go.

As such, this is a marketplace that will be geared to *transactional benefits* and not transformational benefits. Earlier in this submission we estimated that the first 860,000 plans in the NDIS full scheme rollout are in the main likely to carry business-as-usual content, which will likely translate to 860,000 packages of business-as-usual supply. In a price-fixed market, the NDIS participant's choice to be limited to subtle variations on vanilla – vanilla with a hint of rose, vanilla with a touch of magnolia, vanilla with a scintilla of cream.

If we followed the scenario through, and depending on the exact timing of when the NDIS removes the price-fixing feature, there could have been 1 million or more market transactions that are characterised by 'business-as-usual' services at a vanilla price.

In so doing, the 'mature' NDIS market might comprise larger service providers skilled at the logistics of delivering transactional benefits, that consolidate NDIS participants as recipients of paid ancillary services, rather than moving into valued membership of community life.

As such, this is the wrong market for the NDIS, and will not uphold or advance the values that are meant to underpin the Scheme. Indeed, such a market, anchored on the delivery of transactional benefits, might make the NDIS participant just comfortable enough in their service reciprocity to reduce their appetite for pursuing transformational benefits because of what they fear they may 'lose'.

This would be disastrous for the NDIS, both in terms of progress towards the values driven outcome of participation in community life and economy, and also because if people's arrangements entirely comprise paid service reciprocity, this will present pressure on NDIS financial sustainability.

In response to these two issues we have outlined, we believe the NDIS approach to market development needs to be immediately reframed so that there is a clear market goal associated with transformational benefits.

Further, we believe that the fixed prices schedule for services should be removed, and replaced with an approach that focuses on *price signals*. For example, an NDIS participant's plan includes provision for 15 hours of support each week. The NDIS gives the participant a price signal, where the estimate the typical price for a typical hour of support is \$42.79, together with some guidance about how the participants might achieve more as a support by finding a lower price, and how the participant might wish to choose a higher priced service because of a particular quality proposition, in which case the participant would need to resolve how to succeed with less hours paid support each week, or whether other resource sources could cover the remaining hours.

This approach instates genuine control and choice with the NDIS participant, whose choices can then begin to influence what suppliers offer.

This raises the question of how best to support the NDIS participant to build capacity to make informed choices, and this is the topic of the next section.

That said, we note that typically people can make better choices when they have access to good information. This gives rise to the expressed value of an *informed choice*.

Over and above the focused capacity building set out in the next section, there are well-established ways to support people to connect to information relevant to their options.

There is plenty of information online that can assist people with information helpful to an informed choice across a wide range of areas. Platforms such as *Tripadvisor* and *Patients Like Me* do this.

Indeed, in relation to the NDIS, we undertook a piece of work in 2013 on this very matter. Funded by the NDIS Practical Design Fund, we ran a co-designed consultation approach that attracted the views of around 400 stakeholders, exploring what people might want from such an online platform.

The resulting report revealed **strong** interest in an NDIS ‘eMarket’, where people could find information, share information, engage service providers, and manage their plans and budgets.<sup>5</sup>

Establishing such a platform without delay will likely assist NDIS participants in making informed choices that can influence a market for transformational benefits.

#### **Recommendation 6**

That the NDIS approach to market development be reconsidered, in support of the goal of transformational benefits in people's lives

#### **Recommendation 7**

That the fixed prices for NDIS services be removed as soon as possible and prior to full Scheme, in favour of price signals that can influence transactions in the emerging disability services market consistent with the three core reform principles detailed earlier in this submission

#### **Recommendation 8**

That an NDIS eMarket be established without delay, to facilitate NDIS participant informed choices.

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<sup>5</sup> JFA Purple Orange (2013) *NDIS eMarket User-defined features for an eMarket to assist National Disability Insurance Scheme participants and others to connect to support agencies and other suppliers*. Accessed 4 April 2017, at <https://www.ndis.gov.au/document/julia-farr.html>