



JFA
Purple Orange

**Submission to the Productivity Commission
study into National Disability Insurance
Scheme (NDIS) Costs**

Submitter details

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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 Citizenhood. Our work includes research, evaluation, capacity building, consultancy, and hosted initiatives.

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Contents

1.0	Introduction to This Submission	4
2.0	Summary of recommendations	5
3.0	The compromised role of the National Disability Insurance Agency.....	7
4.0	Living the values that underpin the NDIS	8
5.0	Reframing the approach to planning, to draw on community expertise	10
6.0	Reframing the approach to the LAC role, to draw on community expertise.....	13
7.0	Reframing the approach to pricing, in support of a demand driven diverse market	16
8.0	Deeper investments in NDIS participant capacity building	20
9.0	Reframing the approach to divining Scheme costs	21
10.0	Psychosocial disability and non-clinical community mental health services.....	23
11.0	Challenging a possible assumption about workforce expansion, and the associated implications for choice	24

1.0 Introduction to This Submission

JFA Purple Orange welcomes this opportunity to make a submission to the Productivity Commission's study.

The Productivity Commission study into the National Disability Insurance Scheme (NDIS) costs comes at a critical time in the life of the new Scheme.

JFA Purple Orange believes that 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 a 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.

This submission examines a number of areas that we believe require urgent and strategic attention to help ensure the NDIS delivers on its promise. In contemplation of such matters of design and implementation and the extent to which they advance or undermine the underlying values, this submission focuses on several themes:

- The compromised role of the National Disability Insurance Agency
- living the values that underpin the Scheme
- reframing the approach to planning, to draw on community expertise
- reframing the approach to the LAC role, to draw on community expertise
- reframing the approach to pricing, in support of a demand driven diverse market
- deeper investments in NDIS participant capacity building
- reframing the approach to divining Scheme costs
- Psychosocial disability and non-clinical community mental health services
- Challenging a possible assumption about workforce expansion, and the associated implications for choice

2.0 Summary of recommendations

Recommendation 1

That the approach to the development of NDIS policy, NDIS sector, and related matters, be consolidated and simplified so there is single-agency accountability, and a framework that can be held properly accountable for ensuring the disability community perspective is engrained in every NDIS policy decision.

Recommendation 2

That auditable system arrangements be put in place to ensure that all NDIS design and implementation decisions (as made by the NDIA and other government bodies including the Disability Reform Council, the Department of Social Services, and others, including the Productivity Commission in the present study), uphold and advance the values of control and choice and authentic valued participation in mainstream community life and the economy.

Recommendation 3

That the NDIS adopt as soon as possible a set of outcome measures that genuinely measure transformational benefits in the lives of NDIS participants.

Recommendation 4

That the NDIS planning methodology be overhauled to include capacity for community-based individualised planning performed by non-service-providing community agencies, with in-house agency planners available by exception, and that this leads to a corresponding reframing of the NDIA planner role and responsibilities, as per the report to NDIA, *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.*

Recommendation 5

That the NDIS LAC function be redesigned to enable its delivery by local agencies that have deep presence in, and deep knowledge of, specific local communities.

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.

Recommendation 9

That the NDIS and the Disability Reform Council develop a long term strategy for investment in the demand sector of the NDIS market – people living with disability and their families – by building momentum for DSO-type activities including, but not limited to, peer networks. And that funding for existing demand side initiatives including the DSO project be continued until the demand side strategy is developed and implemented.

Recommendation 10

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.

Recommendation 11

That the state and territory government partners in the NDIS do not divest themselves from involvement in non-clinical mental health services without a comprehensive examination of the implications, and involving consumer stakeholders in those deliberations.

Recommendation 12

That the NDIS review the boundaries it sets on the options available to NDIS participants, to ensure it is maximising the value (control and choice, participation in community life in the economy, and Scheme financial sustainability) of participants having the option to access a broad range of mainstream options. Further, that Treasury assist this process, to help ensure that such deliberations are not thwarted by concerns about whether an NDIS individual budget constitutes taxable income if a participant is using part or all of it for 'ordinary' things that most people pay for out of their own disposable income.

3.0 The compromised role of the National Disability Insurance Agency

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

This places the NDIA in a very difficult position. Our concern is that these numeric imperatives within the bilateral agreements are setting the culture for decision making, both by the NDIA and also other government bodies whose work and decisions impact the design and implementation of the NDIS. In so doing, this culture undermines the advancement of control and choice, and of participation in community life and economy.

We have the feeling the NDIA's role has shifted from its no-doubt preferred role of administering a Scheme that facilitates genuinely personalised impactful solutions, to a role where its work is shaped by dominant external forces that have priorities other than consumer choice and community participation. To use a culinary analogy, instead of being the executive chef of a restaurant offering a highly personalised menu, the NDIA is at risk of being the short order cook in a fast-food joint.

For example, because of the timeline pressures created by the bilateral agreements, the transition time pressures appeared to have resulted in a reduction in the time available to assist people to resolve their plan; in some cases this is reported to have reduced to a 30 minute phone call. This could not be further removed from the feature of a 'person centred model of care and support' that is meant to distinguish the NDIS from previous approaches¹.

We are also concerned that policy leadership feels somewhat removed from the NDIA, with key aspects of the Scheme apparently being constructed elsewhere, such as the Disability Reform Council (for example, the original draft of the Specialist Disability Accommodation framework) and the Department of Social Services (for example the Sector Development Fund).

The problem with this, is that it becomes harder to hold any one agency accountable for key policy principles and settings. Also, it is difficult for the NDIA to really deliver on a systemic commitment to co-design if a number of policy decisions are externally driven and which are missing the disability community perspective in their design process.

The consequence is that the current pathway by which an NDIS participant moves through the NDIS system is not sufficiently geared to the handover of control and choice to the participant. If the Scheme is anchored on the value of people living with disability having greater control and choice, one might reasonably expect that the Scheme's own systems would reflect this. It is our view that currently they do not and this will inadvertently lengthen the time it takes for NDIS participants to grow into the potency of their role as customers, which in turn impacts the Scheme's outcomes and sustainability.

¹ Productivity Commission Issues Paper, March 2017, p3

Recommendation 1

That the approach to the development of NDIS policy, NDIS sector, and related matters, be consolidated and simplified so there is single-agency accountability, and a framework that can be held properly accountable for ensuring the disability community perspective is engrained in every NDIS policy decision.

4.0 Living the values that underpin the NDIS

We believe there are three main sets of values that 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

These values also constitute measurable outcomes.

To be true to its underlying values, the NDIA and other relevant government bodies need to uphold *all* these values in every decision taken in design and implementation. This is a simple yardstick and should be relatively easy to measure.

Currently, our observations – in the main based on dialogue with NDIS participants, service providers and government stakeholders – suggest NDIS decisions are currently influenced most by the value imperative relating to financial sustainability; decisions in support of NDIS financial sustainability (including transfer of costs between governments) overshadow and undermine the other two values.

This is unacceptable. Every NDIS design and implementation decision – big and small – needs to pass muster across all three underlying values. This is the only way to help ensure that the NDIS delivers on its key, values-driven outcomes.

Currently the drama of transition, coupled perhaps by the associated anxiety of those public servants involved and their political masters about navigating the unknown, appears to be resulting in a reluctance to facilitate the authentic transfer of control and choice to the NDIS participant (see other sections below).

We believe this may result in an NDIS that is characterised by regulated transactions that represent a government view of what could disability supports look like, and where government is the primary beneficiary in terms of control and choice. We fear the NDIS through its implementation may take on transactional features and culture associated with schemes such as Medicare and Centrelink.

The problem with this transactional approach – where government determines the acceptable elements of disability support and the associated itemised prices – is that it will only bring transactional benefits, such as help with washing and dressing, help with household tasks, and so on. We define *transactional benefits* as benefits that are enjoyed in the moment and which will need to be delivered again at some point in the near future: preparing a meal for a person delivers a

transactional benefit, but that person will be hungry again; vacuuming a carpet delivers a transactional benefit, but that carpet will gather dust again.

While transactional benefits are important, by themselves are unlikely to be sufficient to lift people into valued roles in community life and economy.

By contrast, we define *transformational benefits* as benefits that genuinely transform a person's life chances, for examples through self-belief, capacity-building, access to mainstream opportunities, personal network development, and the subsequent take-up of valued contributory roles in community life and economy.

We believe, at its heart, the NDIS is in the business of delivering transformational benefits in people's lives.

Our concern is there is a risk the NDIS design and implementation will carry, for whatever reason, a strong bias towards transactional benefits. If so, a likely consequence is that NDIS participants might feel better serviced, they might feel more comfortable, but not much else. It is possible for a person to be more comfortable through reliable disability supports but to still be seen (or see themselves) as a lower class of citizen, unskilled, uninvolved, poor, and lonely; such are the features of a life of service reciprocity.

We believe that an unerring, sustained focus on transformational benefits – measurable and meaningful gains in terms of people taking up valued roles in community life and the economy – offers the best pathway to the Scheme's financial sustainability.

Recommendation 2

That auditable system arrangements be put in place to ensure that all NDIS design and implementation decisions (as made by the NDIA and other government bodies including the Disability Reform Council, the Department of Social Services, and others, including the Productivity Commission in the present study), uphold and advance the values of control and choice and authentic valued participation in mainstream community life and the economy.

On the basis of the idea that 'we are only interested in measuring those things that are most important to us', this establishes an imperative to establish an outcomes measurement framework that charts the extent of genuine transformational benefits, in terms of gains in the take up of valued roles in community life and the economy, the development of freely given relationships and the safeguards those relationships bring, and similar metrics that speak to the extent that people are taking up their Citizenship.

These metrics are then likely to generate data that will signal which types of NDIS investment are most effective at creating transformational benefits.

Recommendation 3

That the NDIS adopt as soon as possible a set of outcome measures that genuinely measure transformational benefits in the lives of NDIS participants.

5.0 Reframing the approach to planning, to draw on community expertise

In 2015, as part of our role in supporting the NDIA-mandated DSO initiative, we undertook an extensive consultation on the topic of individual planning in the NDIS. The work was based on a co-design methodology, and completed in collaboration with 18 DSO agencies operating around Australia. There were over 600 consultation participants.

The resulting report, *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*, was delivered to the NDIA in December 2015.

Though the NDIA preferred the term *preplanning* – the planning you do before you show up at the NDIS and do planning with the NDIA planner – the advisory report charted those planning process elements that people living with disability and their families said were important. As such, the report can be readily applied to the question of how to undertake effective individual planning within the NDIS.

A key finding was that people prefer to undertake planning with someone they know and trust, and in a timeframe and methodology of their own choosing. This cannot be regarded as an earthshattering revelation, because these features are likely to be important for most Australians considering the bigger decisions in their lives. These preferences also reflect the value of control and choice.

This illustrates the difficulty of the task facing NDIA planners who, in the main, cannot be expected to carry rich and trusting insights into the lives of the NDIS participants they are assisting because that's not the nature of the relationship. Also, NDIA planners are governed by planning methodologies and timelines that may not be the natural choice of each NDIS participant.

Because of this, it can be argued that the current NDIA planning mechanism does not in and of itself advance choice and control for people living with disability, and is an impossible task for NDIA planners.

We understand the pressures placed on the NDIA by the transition targets within the bilateral agreements. However, as per our central point in the previous section, the process for running the transition into the Scheme, with its focus on the transfer of financial responsibilities between governments, must not be operated in a way that undermines choice and control and participation in community life and economy.

Unfortunately, we think it *is* undermining those values. The NDIA's decision to run a highly truncated planning process is an understandable response to the unenviable position they are placed in; they are charged with having to implement the bilateral agreement timelines which have been negotiated by other parties and which are likely to have had little regard for considerations in relation to person centred planning.

The NDIA seeks to reconcile this difficult decision by asserting this initial planning moment marks the beginning of a long relationship, that the primary goal of the first plan is to get each eligible person onto the Scheme and that the magic of choice and control and participation in community life and the economy will emerge in a subsequent planning moment.

At the very least, this means that the first 460,000 planning transactions will largely be business-as-usual transactions where NDIS participants come into the Scheme with a similar character of supports they had previously, albeit with some enhanced elements as befits the increased investment the NDIS brings overall.

Further, because the transition process covers several years, it is hard to imagine that each NDIS participant will enjoy a profoundly deeper and more personalised planning experienced 12 months after first entry to the NDIS. This is because the next cohort of new entrants will be competing for the available planner time. For a significant number of NDIS participants, it is likely that the second year plan, and arguably the third year plan, will not be significantly different to the first year plan, save for the usual inflationary cost pressures that have been typical for conventional disability support services.

How do we arrive at this view? Assuming a three-year transition to full scheme involving 430,000 participants (460,000 projected total less those brought in during the trial site years) and assuming equal numbers of NDIS participants coming onto the scheme each year (143,333), the number of 'wait until next year', business-as-usual planning transactions would exceed 860,000. This comprises:

- the year 1 cohort who get the wait-until-next year message in all three years of the transition because of the traffic of new entrants in years 2 and 3. This equates to a subtotal of 430,000 business-as-usual transactions;
- the year 2 cohort, who get the wait-until-next year message in years 2 and 3. This equates to a subtotal of 286,667 business-as-usual transactions;
- the year 3 cohort who get the wait-until-next year message in year 3. This equates to a subtotal of 143,333 business-as-usual transactions;

In consequence, there would be a total of 860,000 business-as-usual plans. This would likely translate into 860,000 business-as-usual market supply responses.

This will create an NDIS market that is a business-as-usual market, providing the types of transactional benefits we referenced in the previous section of this submission. Given the disability community's experiences as reported in the *Shut Out* report² that informed the 2010-20 National Disability Strategy, and given the corresponding value imperative for the NDIS to deliver control and choice and participation in community life and the economy, it seems deeply counterintuitive to foster a business-as-usual market.

Arguably, the NDIA can say it has no choice, given the explicit milestones within the bilateral agreements. However this apparent mutual exclusivity, between the goal of the transfer rates of people living with disability into the Scheme and the goal of careful, authentic person-centred planning, exists only if one assumes that the NDIA takes a detailed, direct role in both cases.

By contrast, our view is that it is possible to undertake more authentic person-centred planning while maintaining the agreed transfer rate into the scheme, *if* there is a shift in the process so that the bulk

² Australian Government (2009) *SHUT OUT: The Experience of People with Disabilities and their Families in Australia* National Disability Strategy Consultation Report prepared by the National People with Disabilities and Carer Council

of planning takes place in a way that maximises the power of self-agency and community-agency. This might involve some people undertaking their own informed planning, while others might use the services of a third party planning assistant, likely to be at a significantly lower cost to the Scheme compared to NDIA planner costs.

In this way, the NDIS participant can choose where they get their planning assistance from, over what timeframe, and with what methodology. When they do show up at the meeting with the NDIS planner, they already have a clear and detailed plan for their aspirations and supports.

This implies an immediate and sustained investment in information services and in the availability of planning assistance within community.

It also implies a reduced financial burden to the NDIA in terms of NDIA planner costs. This is because the NDIA planner role changes. No longer would the NDIA planner need to be involved as a pilot or navigator of a detailed planning process with each NDIS participant. Instead their role becomes that of an agency representative, a gatekeeper, a negotiator, whose role is to help ensure the best possible match between each NDIS participant's plan elements and the NDIS funds available.

The preplanning advisory report³ carried 22 recommendations that we believe could be deeply helpful to the NDIS implementation process. These 22 recommendations were organised under the following areas:

- investment in people living with disability
- investment in community infrastructure
- investment in improved NDIA communications processes
- investment in improved NDIA planning process
- investment in cross sector collaboration

We believe these same 22 recommendations are directly relevant to be current Productivity Commission study.

Recommendation 4

That the NDIS planning methodology be overhauled to include capacity for community-based individualised planning performed by non-service-providing community agencies, with in-house agency planners available by exception, and that this leads to a corresponding reframing of the NDIA planner role and responsibilities, as per the report to NDIA, *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.*

We note that LACs are expected to have a role in assisting people to plan. The above points may lead some to draw the conclusion that more of the planning role can be migrated to LACs. In principle this could work, but only if the way that LAC services are commissioned in a way that genuinely reflects choice and control and deep knowledge of places of entry into local community life and the economy.

³ op.cit.

As we set out in the next section, the current approach to LAC commissioning is unlikely to reflect these values.

6.0 Reframing the approach to the LAC role, to draw on community expertise

The Local Area Coordination (LAC) role was identified by the previous Productivity Commission enquiry into disability supports as a key desirable feature of a proposed NDIS.

Currently, it can be argued that there is a risk of duplication because both the NDIA planner and LAC roles touch on themes of planning. We contend that if the recommendations in the previous section were taken up, the risk of duplication and confusion would be reduced.

However we remain concerned about the current pattern of NDIA investment in LAC services.

First, it is worth briefly noting what one might consider to be the key elements of an LAC role.

Though there has been a focus of attention on the LAC model developed in Western Australia, LAC-type activities have featured one way or another, to a greater or lesser extent, in social services in Australia and overseas, for many years. The idea is not new, and it is the extent of coherence and execution that count.

In general, an LAC-type role might be regarded as including some or all of the following, in no particular order:

- source of information about the NDIS and other funding schemes
- source of information about mainstream community resources
- source of information about where the places of welcome are in community life, places that have habits of inclusion
- source of practical introduction/advocacy to facilitate access to mainstream resources
- source of information about resources relevant to specific types of disability
- source of assistance to think about how to plan to make the best use of specialist public resources like the NDIS, and community resources more broadly
- source of assistance to connect to other people in similar situations for mutual support, for example by signposting to peer networks
- source of assistance to build collaborative solutions for disability support and community membership
- development of a trusting, longitudinal relationship with a person living with disability and their family, in support of all the above

in many respects, this role profile could be described as that of the classic 'fieldworker' employed by many community agencies in the past to help deliver practical benefits to their members.

The success of such roles is anchored on knowledge capital, not just about the experience of disability but also about the local community and its history. In addition to being highly personable, well-organised, and insightful about the experience of specific types of disability, good fieldworkers – good LACs – carry detailed insights to their local community. They know who the local movers and shakers are, they know who is helpful, they know where the key relationships are, and they know how that community gets things done.

This deep and detailed insight into a local community, its culture and history, makes it more likely the person in the LAC role can engineer the types of collaborative, sustainable solutions that advance people living with disability into valued membership of community life, and which in consequence reduce pressure on the NDIS purse.

When considered in this way, it can be argued there is already LAC capacity and expertise throughout Australia, typically vested in local community organisations, variously anchored on cultural, demographic, or lifestyle identities.

It can then be argued these agencies are well-placed to deliver LAC services for the NDIS, given the local community knowledge and relationships they carry.

However, as far as we can tell, the current strategy for building NDIS LAC services involves a commissioning process that does not appear to prioritise the importance of local community knowledge and networks. For example the first NDIS LAC contract in South Australia, for a mixed demography in Adelaide's northern suburbs and the Barossa and Light country regions, has been awarded to an aged care service provider based in Queensland, who have won a similar opportunity in the ACT⁴.

It is hard to imagine how a Queensland--based aged care service provider can deliver successful local area coordination services in Adelaide's northern areas and nearby country. This provider is unlikely to have had a detailed history of involvement in those local communities, is unlikely to know the local culture, who the local leaders are, how they get things done, what types of collaboration have succeeded and failed in the past, or what the language of cooperation is. It is unlikely to be enough for such an agency to rely on the recruitment of local people into the LAC role, because of the significant variables operating in relation to role description, pitch, selection, and support. It is extraordinarily hard for a non-local agency to land the right fingerprint in such a process, however well-intentioned.

It is also important to note that if the Scheme seeks to assist people living with disability to genuinely connect into mainstream community life, the most respectful way to do that would be to engage local agencies with grassroots that NDIS participants can trust.

Given these difficulties, this commissioning mismatch will likely result in sub-optimal practice across the main elements of the role, and this will likely drive up NDIS costs.

⁴ This appointment of non-local organisations to deliver LAC contracts has also occurred in Victoria, with one NSW based provider working in the Loddon region, and a Gippsland-based community health provider contracted in two regions in Western Victoria and two metropolitan Melbourne regions.

It also undervalues current well-established local agencies, who have these knowledge and skills set. Instead of giving such agencies the opportunity to apply their local knowledge and skills to local people living with disability, investment is instead made in agencies that do not have these core local skills and knowledge. As such, there is a danger that the current LAC commissioning approach is actually working against the ideas of community development and of leveraging existing community capacity, both of which are essential to the sustainability of the NDIS.

It is our view that a better approach to LAC service development would be to invite existing local community agencies to bid for LAC services in their local area, so the NDIS can capitalise on existing community capacity, expertise and networks. This seems a far better bet for genuine, cost-effective momentum. This is especially so when compared to the current tactic of parcelling up large tracts of geography (within which there may be many diverse communities with their own identities, histories, and ways of getting things done), as a single LAC contract and awarding it to an agency that may be critically underpowered in local knowledge, history and culture.

This more diverse approach to LAC services does not necessarily translate to a burdensome weight of contracting for the NDIA. Much like a franchise arrangement, there could be a single clear common description of LAC service delivery elements, with sufficient bandwidth to enable local community agencies to provide the deliverables in ways that best reflect local community culture.

We also suggest this approach would also help to consolidate the availability of planning assistance to NDIS participants the local areas, including the principle of choice. For example, a Bhutanese man living with multiple sclerosis in a Cairns suburb could potentially have the choice of LAC support and planning assistance from, among others, his local neighbourhood community association, or the local society for people living with multiple sclerosis, or the local Bhutanese association.

We suggest this approach would be no more expensive, and quite possibly less expensive, than the existing commissioning strategy, and more likely to deliver LAC outcomes through leveraging informal support, mainstream service opportunities, local identity, knowledge and networks. The current model of having a single LAC partner in each NDIS rollout region is a poor fit for the function to be successful. It is possible that the approach has been selected at least in part because it might deliver efficiencies in managing single (rather than multiple) contracts in regions. While this might appeal to the value of Scheme financial sustainability, it is at significant risk of falling short in terms of the values of control and choice and of participation in community life and the economy.

In many ways the LAC role is central to the reform ambition of the NDIS. Individualised funding of disability services provides more choice and better goal-based planning, but ultimately is only about the delivery of funded disability supports. In isolation, funded disability support services do not deliver community connection or economic participation outcomes. Scheme participants will rarely be setting their life goals exclusively inside the disability services market, and many will require the networks and linking support from community agencies to become more active in their local communities.

In performing LAC functions, these community agencies are also critical in working at the boundaries of tiers 2 and 3 of the Scheme. Embedding the LAC function (in addition to planning) in communities makes the job of Scheme interfaces more organic, and we argue it is a more effective alternative to the currently-framed ILC program, which is hampered by the commissioning problem we have outlined above.

Arguably, administrative separation of the LAC, planning and ILC programs is itself a barrier to reform, due to these separations being designed within NDIS structures without input or genuine partnerships with mainstream portfolios or communities.

We note there may be concerns about whether local agencies can scale up adequately to provide an LAC service at the scale the NDIS needs. We think this issue is addressed at least in part by running a multitude of LAC contracts, as set out earlier in this section. We also think that if a local community agency needs assistance to scale up, it would be a worthwhile investment because it is an investment in mobilising and expanding existing, well-established community capacity. In this way it draws on principles associated with methodologies such as Asset Based Community Development (ABCD), and therefore in keeping with the idea of growing community capacity in support of participation in community life and the economy.

Recommendation 5

That the NDIS LAC function be redesigned to enable its delivery by local agencies that have deep presence in, and deep knowledge of, specific local communities.

7.0 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 paper⁵, 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

⁵op.cit. p6, table 1

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.⁶

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

⁶ 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>

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.

8.0 Deeper investments in NDIS participant capacity building

As for many other countries, the prevailing experience of Australians living with disability, both historically and currently, has been one where life brings limited choices, limited opportunities, limited membership of mainstream community life, and limited supports. Typical models of service do little to challenge this. By their nature, congregate supports like group homes, day programs, special schools, sheltered workshops, and their like, present restrictions on choices and create distance between a person living with disability and other people living in the mainstream community.

Added to this is the underfunding of supports; an underinvestment in the life chances of people in the disability.

These experiences have been explained in the Shut Out report ⁷ and gave rise to the Productivity Commission's previous enquiry conclusion that Australia's disability funding and support arrangements were 'broken'.

Because of this history, people living with disability and their families, in the main, have had little experience of exercising informed choices and making planning and commissioning decisions, in relation to the supports they seek and the goal to which they aspire.

Consequently, there has been recognition that the NDIS demand sector – an estimated 460,000 NDIS participants – may need to grow into their potency as authors of their own lives and commissioners of their supports.

The schedule of NDIS fixed prices has been one way to address this matter, and we have attended so that in the previous section. In addition, there has been an NDIS Sector Development Fund, worth \$147m and administered by the Department of Social Services (DSS). It is not easy to accrue detailed information on how the Sector Development Fund is being used, how much has been spent on the demand sector and how much is being spent on the supply sector.

⁷ op.cit.

However we suspect that the weight of investment has been on the supply sector because of government stakeholder anxieties about ensuring availability (and arguably continuity) of sufficient supply.

One significant investment in the demand sector has been the DSO project, which again picks up a key theme – Disability Support Organisations (DSOs) – from the original Productivity Commission inquiry. This 2-year project, which has been given a temporary extension to 30 June 2017, has involved 18 DSOs from around Australia developing well over 300 peer networks.

Working with these 18 DSOs, JFA Purple Orange assisted their community-of-practice, including the development of an evaluation framework for their work. The subsequent evaluation report, submitted to the NDIS in December 2016, found a range of benefits as reported by peer network members and their supporters, including increased capacity in relation to navigating the NDIS and navigating broader community issues.

Given the low per capita cost of these peer network meetings, we believe they are a cost-effective way of advancing demand sector capacity. With meetings typically happening monthly for an average of 11 participants in each case, and with key recurring themes in relation to NDIS and broader community issues, these peer networks not only offer a way for people to access capacity-building early and often, but also offer a network of people connected to each other for information and support. This can serve as a further safeguard against someone being exploited when making choices about their supports.

Given the current fixed-term shelf life of the Sector Development Fund, we believe there needs to be a renewed and deeper commitment to demand sector development, to ensure continued investment in peer networks and other DSO-type activities that can help NDIS participants move into the potency of their role.

Recommendation 9

That the NDIS and the Disability Reform Council develop a long term strategy for investment in the demand sector of the NDIS market – people living with disability and their families – by building momentum for DSO-type activities including, but not limited to, peer networks. And that funding for existing demand side initiatives including the DSO project be continued until the demand side strategy is developed and implemented.

9.0 Reframing the approach to divining Scheme costs

We believe the NDIS constitutes an investment in the life chances of people living with disability, so that participants can take up their rightful place as active valued members in community life and the economy.

We further believe that the Scheme has been costed based on what is currently known about the price of disability supports, and the amount of those supports that might be predicted for various experiences of disability.

We can see at least two significant problems with this approach. First, if the Scheme is modelling its costs on financial data about existing services, this means the Scheme is anchoring notions of 'affordable' and 'reasonable and necessary' on a service model that is characterised by congregate services. There is already some evidence for this in the carriage of the Specialist Disability Accommodation (SDA) framework, which has contemplated a threshold beyond which the costs of independent living support are "prohibitive" and that shared living with other people living with disability needs to be considered as a way to spread the cost burden.

The second problem, which follows on from the first, is that the costing model is likely based on measuring the extent of the person's disability per se. For example, such an approach might resolve that a 25yr-old man living with significant intellectual disability will need 28 hours support each week for help with daily living tasks, based on looking at what this man's vulnerability looks like, measuring the things he cannot do, and then allocating supports to compensate. The focus is on the person's disability.

An alternative approach might be to look less at the disability and more at the *consequences* of that disability. For the 25yr-old man in this example, one consequence might be that he is unemployed (or working for \$3 an hour). If the Scheme's goal is to lift people into community life and the economy, and if we notice that the vast majority of 25yr-old people are in waged employment, then our focus is drawn to the gap that exists between the 25yr-old man and waged employment. We can contemplate what type of investment would provide the best chance of closing that gap and getting this man into mainstream waged employment.

The first costing approach, the one that focuses on the person's disability, is an exercise in mapping what someone *cannot* do.

The second costing approach, the one that focuses on the consequences of disability on reasonable life chances, is an exercise in mapping what someone *could* do.

The second approach directly supports the idea that people can take up valued roles in community life and the economy.

We prefer the second approach, and argue it's much more in keeping with the values underpinning the Scheme, and will make it easier to contemplate and measure returns on investment that reduce pressure on future costs. We further unpack this notion of investment that measurable closes the gap between a person and reasonable life chances, in our *Citizenhood model*⁸.

A good place to start would be to consider the Scheme's current suite of 'reference packages', to contemplate honestly whether these reference packages have been built on a 'deficit' costing model or on a 'gap-closing' costing model, and then to build on that by considering what types of investment

⁸ Williams (2013) *Model of Citizenhood Support (2nd Ed.)* JFA Purple Orange, Adelaide

– in housing, employment, daily living support – are most likely to advance the person into community life and the economy

The alternative, a costing model based on assessing deficit, is that the resulting average package costs are far less likely to bear any relation to the Scheme’s target outcomes, and won’t necessarily signal progress towards those outcomes.

This has a corresponding implication for how assessment takes place within the Scheme. If the Scheme claims a value base of advancing people’s involvement in valued roles in community life and the economy, then that is what we would want to measure to judge the impact of the Scheme, to assess return on investment. Logically, we would measure the exact same thing at baseline, at the assessment phase, so that we know the nature of the gap in the person’s life chances.

But if the assessment tool is measuring something different – functional deficit in and of itself – then there is a fundamental disconnect.

Recommendation 10

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.

10.0 Psychosocial disability and non-clinical community mental health services

We are concerned that through the process of negotiating the bilaterals and the comparative costs therein, there may have been some unsafe assumptions about the extent to which locally-funded programs can be dropped so that the released funding can go in as part of the bilateral agreement.

Non-clinical community mental health programs are a good example, where a state or territory jurisdiction may have concluded that the advent of the NDIS means that the target benefits associated with these local programs will become the purview of the Scheme rather than, say, the local health department/directorate. If people want these programs, then they will seek them through their NDIS individualised funding packages.

This type of thinking is flawed. The first problem is that not every beneficiary of such local programs will become an NDIS participant with an individual budget. So they will lose out.

The second problem is that it is easy to underestimate the impact of such programs. Because of their ‘non-clinical’ nature, they can be undervalued or even somewhat dismissed by the health system. However, they can place a critical role in terms of mental health first aid, grassroots case management and de-escalation. If a person with lived experience of mental illness starts to become unwell, it is often these types of service than can provide a ‘stich-in-time-saves-nine’ type of support.

Because good programs like this often fly under the radar, it is easy for them to be undervalued. The consequence of their defunding and removal, is that it creates a gap in the mental health service system, and can increase the chances that people are not picked up early, become more unwell, and eventually show up at the local emergency room or via the police. By that time, there may have been avoidable damage done in the person's work relationships, housing relationships, etc, that will now bring unwelcome consequences and costs, and also a larger-cost service response might have to be used, for example an inpatient stay.

Therefore, we argue that because such services make not only a contribution to NDIS-type considerations but also to the clinical mental health pathway, it is premature for a state or territory jurisdiction to divest itself of involvement in such services until such time that it is absolutely certain that it is not creating a gap that will be costly not only to its own purse but also to the life chances of the people affected.

In coming to such a determination, it will be important to involve local consumer stakeholders in such deliberations.

Recommendation 11

That the state and territory government partners in the NDIS do not divest themselves from involvement in non-clinical mental health services without a comprehensive examination of the implications, and involving consumer stakeholders in those deliberations.

11.0 Challenging a possible assumption about workforce expansion, and the associated implications for choice

We are concerned there may be an assumption that if the overall funds available for disability support are rising by a specific factor (for illustration, say 200%, from \$7m to \$22m) this means the disability sector workforce needs to rise by the same factor.

We think this is an unsafe assumption, and which could dominate the conversation about supply sector sustainability.

Several years ago JFA Purple Orange undertook a small evaluation for a service agency running a pilot on individualised budgets. Before individual recipients were given an individual budget, the entire service investment translated to hands-on support from disability staff. However, once individual budgets were introduced and recipients had more choice about how the funds might be expended in support of outcomes, the spend on hands-on disability support dropped to less than half, in favour of other types of investment.

This was only a small sample size, so can't be automatically extrapolated wholesale to the Scheme. However, it does give a signal that when NDIS participants have a genuine range of options, including options that go beyond conventional disability supports, there could be a significant reduced demand

for hands-on staff. This is an important consideration when contemplating and scoping future workforce dimensions.

We also note that in at least some cases, such 'non-conventional' choices about disability support may actually be cheaper than the 'conventional' option. It therefore makes sense for the NDIS to be as expansive as possible about the range of choices available to NDIS participants about how to use their budget. We are not aware of any evidence that suggests this will cause cost overruns, or that participants will somehow get a poorer service or be more exploited.

We understand there can be concerns about whether NDIS funds should be used to purchase products and services that other Australians might be purchasing from disposable income, which then might raise questions about whether an NDIS individual budget is taxable. However, one might counter that by suggesting that such a mindset constitutes a way of taxing people who are already disadvantaged. As such, it seems odd. After all, the NDIS represents a mechanism for the restoration/advancement of a person's life chances so that they are comparable with the life chances most Australians enjoy.

Recommendation 12

That the NDIS review the boundaries it sets on the options available to NDIS participants, to ensure it is maximising the value (control and choice, participation in community life in the economy, and Scheme financial sustainability) of participants having the option to access a broad range of mainstream options. Further, that Treasury assist this process, to help ensure that such deliberations are not thwarted by concerns about whether an NDIS individual budget constitutes taxable income if a participant is using part or all of it for 'ordinary' things that most people pay for out of their own disposable income.

End of document