

Productivity Commission Review of NDIS Costs

Whole of Victorian Government

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The Secretary
Department of Treasury and Finance
1 Treasury Place
Melbourne Victoria 3002
Australia
Telephone: +61 3 9651 5111
Facsimile: +61 3 9651 2062
dtf.vic.gov.au

Authorised by the Victorian Government
1 Treasury Place, Melbourne, 3002

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Contents

1. Executive summary	1
1.1 The Review is a significant opportunity to assess the NDIS' progress against its original objectives.....	2
1.2 The importance of developing a high quality and innovative sector and workforce	3
1.3 Application of insurance principles and lifetime planning	4
1.4 It is too early to arrive at definitive conclusions about the scheme's cost pressures or financial sustainability	4
1.5 Victoria reaffirms its support to the original governance, funding and risk-sharing arrangements underpinning the NDIS	5
2. Focus of this submission	6
3. Participant outcomes.....	6
3.1 Meeting reasonable and necessary supports for needs of participants	6
3.2 Application of insurance principles and lifetime planning	8
3.3 Interface with mainstream services	10
3.4 Participant choice and control	11
4. Scheme costs and cost-drivers	12
4.1 NDIS cost drivers	12
4.2 Administrative costs	15
5. Market design and development	15
5.1 Provider readiness	16
5.2 Workforce constraints	17
5.3 Pricing.....	18
5.4 Participant readiness.....	19
5.5 Regulatory framework	20
6. NDIS governance.....	21
6.1 Commonwealth and states should continue to share policy responsibility.....	22
6.2 A single national agency	22
7. NDIS funding	23
7.1 Funding principles	23
7.2 Risk allocation	23
7.3 Funding adequacy.....	24

1. Executive summary

The Victorian Government welcomes the opportunity to make a submission to the Productivity Commission (PC) Review of National Disability Insurance Scheme (NDIS) Costs (Review).

The NDIS is amongst the most significant social policy reforms that Australian governments have ever embarked upon. It aims to transform the way that disability services are funded and accessed to ensure people with disability have greater choice and control over services and decisions affecting their lives. While the NDIS is still at a very early stage of its development, early signs are that the reform is delivering on its core objectives.

Victoria is strongly committed to a fair and high quality NDIS and sees no case at this stage for any major change either to scheme design or to overall governance and funding arrangements.

Victoria reaffirms its strong commitment to the original NDIS objectives as set out in the 2011 Productivity Commission report¹ and to the funding and governance arrangements articulated in the May 2013 Heads of Agreement² and Victoria's 2015 Bilateral Agreement³ and the *National Disability Insurance Scheme Act 2013* (Cwlth).

Taken together, these aim to guide the scheme towards:

- participants having their reasonable support needs met based on insurance principles and an individualised, whole-of-life planning approach;
- participants having choice and control over disability supports;
- governance arrangements that recognise the relative policy and service delivery expertise of states within the Australian federal system;
- a sustainable funding model that provides for shared accountability while recognising the fiscal imbalance between the Commonwealth and the states and the relative inefficiency of the states' revenue bases; and
- risk sharing arrangements that recognise the states bear an ongoing risk of cost shifting to mainstream state funded services and have limited capacity to take on more risk without jeopardising service delivery in other areas.

¹ Productivity Commission (2011) *Disability Care and Support*, Productivity Commission Inquiry Report

² Commonwealth of Australia and State of Victoria (2013) *Heads of Agreement between the Commonwealth and the Victorian Governments on the National Disability Insurance Scheme*, 4 May 2013

³ Commonwealth of Australia and State of Victoria (2015) *Bilateral Agreement between the Commonwealth and Victoria: Transition to a National Disability Insurance Scheme*, 16 September 2015

1.1 The Review is a significant opportunity to assess the NDIS' progress against its original objectives

Although the Review's primary focus is on scheme costs, the terms of reference also require the PC to consider a broad range of funding, governance, regulatory, workforce and operational matters.

Victoria considers the Review a significant opportunity for governments across Australia to assess the NDIS' progress against its original objectives. In particular, the PC should consider outcomes for participants and broader scheme performance, including the adequacy and consistency of current planning processes, and whether the transition to a strong and diverse market for disability support services is responding to participant needs.

While the early signs are encouraging, transitional challenges are inevitable when governments embark on such a major reform. In particular, the National Disability Insurance (NDIA) faces significant challenges in its task of assessing eligibility and developing support plans for large numbers of participants within short timelines.

In terms of participant outcomes, early indications are that many clients are receiving increased support and more choice in the support services that they seek. However, some participants appear to be experiencing poorer outcomes.

Areas where the scheme may currently be falling short of expectations include:

- the provision of supports to people with complex needs;
- the provision of supports to people with psycho-social and other mental health disabilities;
- the supply of services in thin markets, especially in rural and remote areas;
- the funding of certain supports that reflect participants' expressed needs, with some gaps emerging between participants' self-assessed needs, what the NDIA will fund and what states previously provided; and
- challenges around plan activation including a lack of information about providers and the services they offer.

There are also early indications that the interface between NDIS and mainstream services may be impeding an integrated approach to client care. This points to the risk that NDIA planners may be focusing exclusively on disability support needs that are eligible for NDIS funding and overlooking broader opportunities to improve client outcomes.

Shortcomings in these areas point to potential problems with NDIA planning, assessment and communications processes.

Victoria considers that the level of funding allocated by the Commonwealth for the NDIA during the transition to full scheme should be higher than what would be deemed an appropriate 'business as usual' budget once the scheme is fully bedded down. It would be false economy to have the NDIA run too lean at a time when it faces the significant challenge of developing individual plans for tens of thousands of participants within tight timelines, in addition to all the other tasks that must be achieved when establishing a new national agency.

Given some emerging concerns about the quality, flexibility, level of individualisation, and timeliness of the planning process during the first six months of the transition, consideration should be given to supplementing the NDIA budget to cover what are essentially one-off costs during the transition years.

1.2 The importance of developing a high quality and innovative sector and workforce

The successful development of a deep and high quality sector for the supply of disability services is an essential requirement for achieving the NDIS vision and is also critical to driving sustainable scheme costs.

Providers face significant challenges adjusting to the new environment and changed funding arrangements, with two-thirds of providers surveyed by National Disability Services (NDS) reporting less than the minimum recommended cash flow standard of three months or more of spending reserves.

Many providers are concerned they will not be able to provide services at the prices offered, with a number claiming they will need to reduce the quality of their services to deliver at current prices.

There is also early evidence of workforce shortages affecting the supply of NDIS supports. Among other things, this could result in recruitment of inadequately qualified staff with implications for service quality.

Victoria considers that a high degree of policy and regulatory certainty during the transition period and beyond will be essential if the scheme is to meet these many challenges.

This includes certainty of regulated price paths, including transparency and independence in how these are set. The PC should assess the impact of price settings on the supply of services, including the sector's ability to meet the need for significant and rapid workforce growth, while meeting scheme quality and safety standards.

The rapid expansion and fundamental change to the supply of disability support services reinforces the need for the timely implementation of a robust quality and safety regulatory framework that will provide effective protection of the rights and safety of people with disability.

The regulatory framework will also need to be actively enforced to assure service quality, protect vulnerable consumers, minimise risks of fraud and encourage providers to invest in a high quality workforce.

Victoria regards the current timeline for the detailed design and implementation of the national quality and safeguards framework as being highly ambitious. It will be important that jurisdictions, led by the Commonwealth, manage the significant risks around legislative timelines, the adequacy of ICT infrastructure and capability, and designing a high quality safeguard system to ensure effective protections are in place once jurisdictions transition to full-scheme.

The Victorian Government is also committed to ensuring that, as the workforce grows, service quality does not diminish. To this end, the Government is implementing a statutory registration and accreditation scheme, which will complement the NDIS Quality and Safeguarding Framework, and help ensure workers have suitable skills and qualifications.

1.3 Application of insurance principles and lifetime planning

An essential feature of the NDIS is that it aims to minimise long-term costs by undertaking early intervention and investment where it will save future costs.

As the PC's 2011 inquiry noted, this requires sophisticated collection and analysis of data to provide a framework for decision-making ... *'that considers the whole of life costs of support for a person, with the capacity to make early investments that save future costs'*. (PC 2011 Overview p.36).

Victoria considers that full application of these insurance principles is critical not only to maximising client outcomes but also to containing the long-term costs of the scheme.

1.4 It is too early to arrive at definitive conclusions about the scheme's cost pressures or financial sustainability

The Review is being undertaken at an early stage in the transition to the full scheme – too soon to arrive at definitive conclusions about the ongoing costs or sustainability of the scheme.

Victoria notes that NDIS costs were contained within the funding envelope for the three years of trial, and that the NDIA still considers the Productivity Commission original projections to be the best estimate of longer term costs.

Any emerging cost pressures should be considered in the context of the market's early stage of development, particularly as some governments transition from being service providers. As the sector develops and the new scheme unfolds, better information will come to light around the demand for disability services and the supply response.

Nevertheless the Review provides an opportunity to consider early evidence on emerging cost pressures and, where these have the potential to undermine the scheme's longer term financial sustainability, to identify appropriate mitigation strategies.

Ensuring the sustainability of scheme costs will not only require careful management of access and scheme boundaries, consistent with the core NDIS objectives, but will also depend critically on the effectiveness of NDIA planning and assessment processes in delivering an insurance-based approach to investment to support people with disabilities.

This requires an evidence base derived from longitudinal data that links individual support plans with client outcomes, and this will take time.

The experience of Victoria's Transport Accident Commission (TAC) is instructive in this regard. TAC has for some years now recognised the importance to longer term financial sustainability of early investment in improving clients' lifetime outcomes. Yet it took more than a decade before TAC could amass meaningful benchmark data on which to base client support plans because the return on investment, particularly around early intervention, takes time to be understood and fully realised.

The PC should consider the adequacy of the longitudinal data being collected for the NDIS and make recommendations on whether these should be enhanced to facilitate early investments that can yield longer term benefits to participants and to scheme sustainability.

Separately, in the interests of stability during this vital transition stage, emerging cost pressures should be addressed through the effective deployment of mitigation strategies within existing policy levers, rather than reconsideration of core scheme design or current cost/risk sharing principles.

1.5 Victoria reaffirms its support to the original governance, funding and risk-sharing arrangements underpinning the NDIS

Victoria reaffirms its support for the governance arrangements outlined in the 2013 Heads of Agreement. This includes a standing council of state and federal ministers as the decision maker on significant NDIS policy issues, COAG as decision maker in relation to scheme costs and implications for mainstream services, and a centralised national NDIA to administer the scheme.

These arrangements are important to ensure states' expertise in disability service design and administration continues to be drawn upon in policy development. They also recognise that the NDIS will continue to operate within an existing service sector where the states are responsible for funding the bulk of mainstream services. The effectiveness of the interface between the NDIS and mainstream services will be critical to both client outcomes and mitigating financial and service delivery risks for the states.

In considering NDIS' funding and risk sharing arrangements, the PC should have regard to Australia's overall system of federal financial relations and the vertical fiscal imbalance between the revenue raising capacity of the Commonwealth and state governments and their respective service delivery responsibilities.

States are already contributing significantly more to scheme costs than the PC recommended and it must also be recognised that the states already bear an ongoing risk of cost shifting to mainstream state funded services. The capacity of the states to take on greater risk is limited, and would leave service delivery capacity in other sectors exposed to greater risk.

2. Focus of this submission

While advocating for stability in scheme objectives, design, governance and risk sharing arrangements, this submission considers some early evidence on the performance of the scheme to date in five broad areas:

- participant outcomes;
- scheme costs and drivers;
- market design and development;
- NDIS governance and administration; and
- funding and risk allocation.

3. Participant outcomes

The NDIS' central objective is to improve participant outcomes through greater choice and better access to reasonable and necessary disability supports. The core objectives in terms of participant outcomes are that the NDIS:

- meets the reasonable and necessary support needs of participants;
- is based on insurance principles and lifetime planning; and
- provides choice and control over participant disability supports.

3.1 Meeting reasonable and necessary supports for needs of participants

While it is too early to reach definitive conclusions, the limited available evidence from the trial sites is positive. Most participants surveyed by Mavromaras et al (2016)⁴ report an increase in supports and around half say the quality of supports has improved. There is also evidence that providers are responding to participants' preference for more choice and control over the timing, intensity and location of the supports they receive. These positive outcomes are contributing to improved wellbeing for many participants:

'... on the whole the NDIS has improved the wellbeing of NDIS participants and their family members and carers. For NDIS participants, increases in wellbeing were related to having better services than previously and increased independence. Improvements in wellbeing were associated with 'living' better, rather than just managing or 'surviving', and with generally feeling happier. Since joining the NDIS many achievements were reported, relating to NDIS participants' goals and aspirations, which subsequently impacted positively on wellbeing.' (Mavromaras et al 2016 xv)

⁴ Mavromaras K, Moskos M and Mahuteau S (2016) NDIS Evaluation: Intermediate Report, National Institute of Labour Studies, Flinders University, Adelaide, September 2016

While many clients are receiving increased support and more choice in the supports that they seek, some are experiencing poorer outcomes. Areas where the scheme may currently be falling short of expectations include:

- the provision of supports to people with complex needs;
- the provision of supports to people with psycho-social and other mental health disabilities;
- the supply of services in thin markets, especially in rural and remote areas;
- the funding of certain supports that participants need, with some gaps emerging between participants' self-assessed needs, what the NDIA will fund and what states previously provided;
- challenges around plan activation including a lack of information about providers and the services they offer; and
- problems with the interface between NDIS and mainstream services that are impeding an integrated approach to client care, particularly, but not only in the area of mental health.

Shortcomings in each of these areas point to potential problems with NDIA planning and assessment processes and/or capabilities. At this stage, it is not clear if these problems are of a transitional or more structural nature.

One emerging area of concern in the transition to full scheme is the practice of completing participants' plans over the phone. While this may be an efficient approach from the agency's point of view, it will not be an effective approach for all participants – particularly those with cognitive, psycho-social and other mental health disabilities, as well as participants who are less able to advocate for themselves and have limited access to others who can advocate on their behalf.

Victoria is aware of anecdotal evidence of some individuals being contacted by telephone in circumstances where it would be very difficult for them to deal effectively with the planning process. There are also some reports that families of young children with a disability or developmental delay have not fully understood the implications of what they have agreed or their ability to request a plan review.

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

Supply side constraints are also affecting outcomes. At this early stage of market development, it appears demand for some disability supports by NDIS participants may exceed supply. A national study reported that 27 per cent of participants said they could not access a support for which they were funded, particularly those in rural and remote regions and older clients (Mavromaras et al 2016).

The NDIS Evaluation Intermediate Report also found a number of participants were disappointed that items and supports they want are not funded by NDIS, including social and recreational activities. For example:

'It was thought that NDIS funding of individualised support services instead of group-based services had negatively impacted on the social participation of some NDIS participants who no longer attended programs where they had previously mixed with a range of people.' (Mavromaras et al 2016, 84)

While there must be clear boundaries on what the NDIS can sustainably fund, social and recreational activities can provide important community and learning opportunities as a pathway to greater independence.

Finally, there are emerging issues in areas including transport and therapeutic services, with a higher incidence of dissatisfaction with participant choice among those who report they need help with transport in order to access their supports and among those who say they receive therapeutic services and support with medication through the NDIS (Mavromaras et al (2016, 61).

To overcome issues associated with planning, Victoria and the NDIA have commenced and integrated planning project. The project involves Victorian Government staff gathering information on behalf of the NDIA with existing clients ahead of their transition to the NDIS. This approach targets residents of government operated supported accommodation and people with an Individual Support Package and complex circumstances.

The project is initially being undertaken in the five areas scheduled to transition in October and November this year. The approach aims to both support the NDIA to approve plans in a timely manner and to improve plan quality.

Victoria has recently established a complex needs sub-working group of the Implementation Task Force Participant Readiness Working Group. Members include peak organisations, advocacy groups, and the NDIA to ensure individuals with complex needs, their families and carers receive appropriate support.

At the Disability Reform Council meeting on 5 December 2016, the Commonwealth agreed to Victoria's request for a review of the NDIA's First Plan process, focusing on participant outcomes and information about outcomes.

3.2 Application of insurance principles and lifetime planning

An essential feature of the NDIS is that it aims to minimise long-term costs by undertaking early intervention and investment where it will save future costs. As the Productivity Commission's 2011 inquiry noted, this requires sophisticated collection and analysis of data to provide a framework for decision-making ... *'that considers the whole of life costs of support for a person, with the capacity to make early investments that save future costs'*. (PC 2011 Overview p.36).

Full application of these insurance principles will remain a central element not only to maximising client outcomes but also to containing the long-term costs of the scheme.

The benefits of early childhood intervention services for children with a disability or developmental delay prior to school are compelling

The period from birth through to eight years old sets the foundation for future physical, social, emotional and cognitive development.

Access to high quality early childhood intervention services has been demonstrated to improve outcomes for children with disabilities and their families. For families, the earlier the interventions begin, the easier it will be for them to adapt to the challenges they face when their children are identified with a disability or developmental delay.

Despite the evidence of positive adaptations, families of children with developmental disabilities are at greater risk of a number of social and psychological stresses. These include mental and physical health problems, relationship problems, poor housing and increased expenses coupled with reduced income (because of constraints upon both partners working). Research has identified that these families have additional demands placed on their time, stress levels, energy, finances and relationships with partners as they attempt to provide the best interventions for their children as well as meeting the needs of siblings, other family members, work commitments and personal needs.

Economic benefits

The economic return of investing in high quality early childhood development consistently results in increased productivity through improved school grades, increased workforce participation and reduced spending on repeated school years, juvenile detention, and reliance on social benefits.

Without the intervention support, crucial opportunities for improved outcomes for children may not be realised. This may result in increased demand for more costly expenditure on remediation or other interventions later in the child's life, including the potential ongoing reliance on government services and/or social welfare.

The economic return of investing in well-designed early childhood interventions have been found to generate a social return ranging from \$1.80 to \$17.07 for each dollar spent on the program.¹ Benefits include increased productivity through greater workforce participation and substantially reduced government spending in areas such as repeated school years, juvenile detention, and reliance on social benefits.

Improved outcomes for children with a disability or developmental delay also lead to enhanced social cohesion, reduced need for costly specialist services, and reduced family stress, dependence and breakdown.

Victoria's *Report of the Protecting Victoria's Vulnerable Children Inquiry 2012* highlighted that early intervention has the potential to deliver significant cost savings to government by reducing the need for specialist and universal supports and interventions over time.²

¹ Karoly, Lynn A., Kilburn Rebecca M. & Cannon, Jill S., *Early Childhood Interventions: Proven Results, Future Promise*, RAND Corporation, 2005

² Report of the Protecting Victoria's Vulnerable Children Inquiry 2012 Volume 2

While it is too early to judge how well the scheme is delivering on this core principle, Victoria is concerned the planning processes to date may not be consistently applying insurance principles to participant support plans. In particular, gaps in holistic consideration of an individual's needs when assessing their disability support requirements, an over-reliance on informal family supports, a lack of flexibility in attitude towards available support options, and a lack of understanding about how participants use mainstream services, may mean opportunities are being missed to make early investments that could both improve client outcomes and save future costs.

The development of a robust set of longitudinal data on individual outcomes would significantly improve potential for the effective delivery of an insurance based approach to investing in individual support plans. It will be some years before meaningful benchmark data can be collected.

The PC should consider the adequacy of the longitudinal data being collected for the scheme and make recommendations on whether these should be enhanced to facilitate early investments that can yield longer term benefits to the disability support system as a whole.

The experience of Victoria's Transport Accident Commission is instructive relation to the application of insurance principles for the NDIS.

The Transport Accident Commission (TAC) is a Victorian Government-owned organisation whose role is to promote road safety, improve the State's trauma system, and support those who have been injured on our roads. The funds the TAC needs to perform these functions come from payments made by Victorian motorists when they register their vehicles each year with VicRoads. Established in 1987 as a state-owned enterprise, the TAC is funded both by premiums and investments generated on reserves.

TAC adopts a holistic approach to managing long-term claimants with a view to improving their life outcomes and reducing longer term costs to the scheme. However, it was more than a decade before TAC was able to rely on meaningful benchmark data because the return on investment, particularly around early intervention, takes time to be understood and fully realised. As an enterprise, it is now able to confidently invest in areas where long-term gains can be made and is also able to operate in a stable and mature pricing market. Policy stability and consistency were crucial in the development and effective functioning of a stable market.

3.3 Interface with mainstream services

It was clearly the original intent of the scheme outlined in the PC Inquiry report (PC 2011 Vol1 p405) that NDIS planning processes would consider disability support requirements in the context of the individual's broader health and welfare service needs, as failure to do so could lead to adverse client outcomes. NDIA data show that more than 80 per cent of NDIS participants access mainstream services, predominantly for health and wellbeing but also for social and civic participation and relationships.⁵

Victoria is concerned NDIA planners may be focusing too narrowly on disability support needs that are eligible for NDIS funding and overlooking broader opportunities to improve client outcomes. For example, the NDIS should be helping young people in nursing homes gain sufficient independence to relocate to more appropriate accommodation, not simply providing them with additional supports to remain where they are. They should also ensure there are sufficient supports to access the community for social and economic activity and capacity building.

The Victorian Government has funded the Young People in Nursing Homes Alliance to support people to transition to the NDIS. It facilitates engagement with planners about young people and their disability needs and the impact on their health if their disability needs are not adequately supported. The Alliance has also found people with complex health and disability needs require someone with knowledge of their health care plan to be invited to submit reports to ensure all disability supports are addressed.

Young People in Nursing Homes Alliance have also reported that Local Area Coordinators (LACs) and support coordinators lack working knowledge of the services systems used by NDIS participants, and therefore poorer planning outcomes are being reported by this group. Victoria recommends health and disability assessments be provided to develop an integrated NDIS plan and that supports are implemented in a holistic way.

⁵ National Disability Insurance Scheme (2016) COAG Disability Reform Council Quarterly Actuarial Report, 30 September 2016

Any gaps in processes and outcomes can pose significant risks for the Victorian health system. In cases where NDIS plans for people with complex health and other needs fail, individuals' health may deteriorate placing the person in a crisis situation, which can increase the costs to both the NDIS and the state-funded health system.

Addressing the issues detailed above is not only in the best interests of scheme participants, but also scheme sustainability.

One of the critical roles for local area coordinators is to support participants to access community and mainstream supports, including the delivery of Information, Linkages and Capacity Building (ILC). ILC has the potential to enable greater access to the social and economic life of people with a disability and is therefore a key component of the NDIS as a social insurance model.

There is a risk that a disproportionate focus by local area coordinators on planning at the expense of ILC activity during transition could adversely impact on longer term outcomes for participants and scheme sustainability objectives.

The PC should consider whether the one per cent cap (of scheme costs) on ILC expenditure should be adjusted to more flexibly accommodate investment in these areas that would generate better participant outcomes.

Similarly, the NDIS should work in a complementary way with the range of mainstream services that exist. In Victoria, NDIS readiness planning is underway across the 11 key mainstream service interface areas: health; mental health; early childhood development; child protection and family support; school education; higher education and vocational education and training; employment; housing and community infrastructure; transport; justice; and aged care.

NDIS readiness planning by Victorian mainstream services is a critical component of *Absolutely Everyone: State Disability Plan 2017-20*, which commits Victoria to becoming more inclusive of people with a disability. Adequate, timely support from the NDIS and an inclusive mainstream service system will reduce reliance on specialist disability supports and allow people with disability to be more present in their communities.

3.4 Participant choice and control

There are positive early signs that clients are experiencing greater choice and control in the selection of disability care and supports funded through the NDIS. A national study by Mavromaras et al (2016, 61-63) found that 44 per cent consider they have more say in the choice of supports and providers than they did pre-NDIS.

However, people with mental health and psychosocial disability are more likely to report less choice and control over supports since becoming NDIS participants. This points to the need for more effective strategies for supporting this cohort in exercising choice.

Choice is also constrained for those living in non-metropolitan locations with fewer service providers. It remains to be seen whether this will be resolved as the sector for disability services matures.

Where respondents are unable to exercise choice and control over aspects of their support, the most common reasons appear to relate to constraints on the supply side and/or insufficient information to enable informed choice.

4. Scheme costs and cost-drivers

Long-term financial sustainability is one of the NDIS's core principles and was included in the scheme's design in a number of ways, including:

- setting clear boundaries on who will be eligible for NDIS support;
- setting clear boundaries on the types of support the NDIS will fund, and what would continue to be provided through mainstream services;
- limiting individual support packages to items considered 'reasonable and necessary' and consistent with a 'benchmark' range of assessed needs for others with similar characteristics;
- setting benchmark prices for certain categories of NDIS-funded support;
- driving innovation and longer term efficiencies through the development of high quality disability care and support services;
- establishing an independent, commercially focused NDIA to administer the scheme; and
- applying insurance principles to underpin early investments based on whole of life costs of support that have the potential to save future costs.

Consideration of factors contributing to any current cost pressures or future costs risks must be balanced with the fact the scheme's operation and development of the NDIS market is still being established. Some emerging cost pressures – such as those reflected in higher than average package costs – may be of a transitional nature as the scheme moves to maturity, or reflect a need for initial investment where there has been unmet need. Average package costs in transition are also influenced by the different rates of access by various participant sub-cohorts that have different average costs.

It is important to take a longer term view of package costs, with the emphasis on improving the social and economic participation of participants that will underpin scheme sustainability. Similarly, any assessment of NDIS costs must also have regard to cost impacts on the broader system, including mainstream services and families and carers.

4.1 NDIS cost drivers

Notwithstanding the constraints on access, scope and the prices paid for supports that were built into its design, the NDIS is of its nature a demand driven scheme and its total costs will vary according to the actual numbers of people found to be eligible, the levels of support considered reasonable and necessary, and average unit costs of support packages.

Victoria agrees with the NDIA that the main cost drivers affecting the financial sustainability of the NDIS will be⁶:

- access;
- scope;
- volume;
- delivery; and
- price.⁷

⁶ National Disability Insurance Scheme *Quarterly Report to COAG Disability Reform Council* 30 June 2015

⁷ National Disability Insurance Scheme *Quarterly Report to COAG Disability Reform Council* 30 June 2015

The effectiveness of the interface between the NDIS and mainstream services to ensure they are working together to improve client outcomes will likely also prove to be an important driver of long-term scheme costs.

In the months since commencement of transition to full scheme, the NDIA has identified the following pressures in relation to scheme access and average annualised package costs:

- higher than expected numbers of children entering the NDIS;
- Increasing package costs over and above the impacts of inflation and ageing ('superimposed' inflation);
- higher than expected number of participants continuing to approach the Scheme;
- lower than expected number of participants exiting the Scheme; and
- a variance between benchmark package costs and actual package costs.

In terms of the five key cost drivers identified earlier, the principal access issue to have emerged to date has been the higher than expected numbers of children entering the scheme under the early intervention eligibility requirements (and lower than expected exits from the same cohort). As noted in the PC's Issues Paper, access to the NDIS under the early intervention criteria is being actively managed through the Early Childhood Early Intervention (ECEI) initiative.

The ECEI approach is relatively new and is being rolled out across Victoria just ahead of the NDIS transition schedule. The framework sets out how the NDIA will partner with service providers to deliver ECEI services for children with a disability or developmental delay aged 0-6 years. It involves community referral to an appointed early childhood partner, information provision to parents and linkages to services in the local community, assessment of functional impact and need which then may result in the provision of short-term intervention supports for a child, or support to access the NDIS with ongoing monitoring of the child's plan and progress.

The ECEI framework incorporates the strengths of the current NSW and Victorian Early Childhood Intervention Services (ECIS) approaches, in particular their 'soft entry' pathways, which have a proven record of connecting families with relevant services. In Victoria's current community health sector, these pathways involve paediatricians, maternal and child health nurses, preschool field officers, kindergarten teachers and other professionals referring families to ECIS. However the model is enhanced by individualised planning, the option of short-term intervention and ongoing monitoring and adjustment of supports tailored to the child's needs.

Victoria will continue to closely monitor the effectiveness of the ECEI approach in consultation with the NDIA, jurisdictional counterparts, early childhood service providers and families to ensure it is living up to its intent and not serving as a restrictive gateway to NDIS supports.

With regard to scope, Victoria notes a comparative review by the NDIA of supports funded under the NDIS trials found the scope of supports was broadly in line with those proposed by the PC.

In relation to the price of support packages, Victoria notes that part of the reason for higher than expected average annualised package costs has been a higher concentration of relatively higher cost supported accommodation participants transferring to the scheme in the first three months of transition to full scheme. Accordingly, these cost pressures could be expected to abate as more participants with lesser support needs progressively transfer to the scheme, particularly young children with developmental delay.

Notwithstanding these pressures, NDIS costs were contained within the funding envelope for the three years of the trial, and the Productivity Commission estimate is still considered by the NDIA to be the best estimate of the longer term cost of the NDIS (approximately 0.9 per cent of GDP for under 65 year olds).

In considering where future cost pressures may arise, analysis of the distribution of existing disability care costs would suggest this will largely be driven by the proportion of participants with very high support needs among the eligible population, particularly those in need of supported accommodation.

Consistent with the PC's original projections, a relatively small number of high support needs participants also account for the bulk of NDIS package costs to date. Only 10 per cent of participants have an annualised package cost over \$100 000, but these participants account for 37 per cent of total committed supports. On the other hand, 56 per cent have an annualised package cost below \$30 000, and account for only 19 per cent of annualised committed funding (NDIS 2016).

This translates to average annualised package costs for participants with supported accommodation supports that are almost double the average costs when participants with shared supported accommodation supports are excluded.

Given significant unmet demand for supported accommodation services prior to the introduction of the NDIS, relatively strong growth in this category of support may be anticipated for some time yet.

In considering how to address any identified cost pressures, it will be important for the PC to have regard to the fact that the NDIS has been designed to achieve sustainability over the long term. In particular, the adoption of insurance principles allows for higher upfront investments where these have the potential to yield future benefits. The NDIS' financial sustainability will critically depend on effective application of insurance principles to drive early investment that will save future costs by improving outcomes for people with disabilities, including their capacity to live independently and participate in social and economic life. This will also reduce the longer term reliance of people with disabilities and their carers on mainstream services and income support.

The financial sustainability of the scheme will also critically depend on implementation strategies that will ensure:

- successful development of a deep market to support choice, quality and innovation in the delivery of disability care and support services;
- establishment of a pathway to transparent, sustainable and predictable prices as the market develops that ensures supply of the range of supports individuals need to improve their life outcomes; and
- growth and development of an appropriately skilled workforce to support the sector to meet strong growth in demand without undermining service quality.

Strategies to manage emerging cost pressures should focus first on effective implementation of these critical design features. Consistent with this, the PC should consider the extent to which any current cost pressures or future cost risks can be addressed through adjustments to the way the scheme is being operationalised and/or steps to support the development of a mature market, rather than options that would involve altering fundamental aspects of its design (e.g. its scope, its basis in insurance principles, or financial or risk-sharing arrangements between governments).

4.2 Administrative costs

Victoria concurs with the statement in the Commission's Issues paper (Productivity Commission 2017 p28) that '*... insufficient funds could curtail the NDIA's ability to deliver the scheme efficiently (and result in higher package costs).*'

The appropriate level of funding for the NDIA during the transition to full scheme is unlikely to be the same as what would be deemed an appropriate 'business as usual' budget once the scheme is fully bedded down. During transition, the NDIA has the dual challenge of bringing in existing state-funded clients and new clients. It would be false economy to have the agency run too lean at a time when it faces the significant challenge of developing individual plans for tens of thousands of participants within tight timelines, in addition to the tasks involved in establishing a new national agency.

Given concerns about the quality, effectiveness and timeliness of the planning process during the first six months of the transition, consideration should be given to supplementing the NDIA budget to cover what are essentially one-off costs during the transition years.

5. Market design and development

A foundation objective of the NDIS was to change the model of service delivery and funding for disability care and support from a provider based model to one centred on participant choice and control.

A necessary corollary of this is the need for a strong and diverse market for the supply of high quality disability services.

The successful development of an innovative market for the supply of disability support and care is an essential precondition for the achievement of the NDIS vision of a consumer choice based approach to funding disability support.

In recommending this approach, the Commission's 2011 report noted it would take time for a responsive market for disability support services to emerge. It also acknowledged the transition from a block-funded system to one based on individual payments and consumer choice carried the risk of disruption to services providers and their clients. Some markets might prove too small to support the provision of quality and innovative disability services under a consumer choice model – particularly in rural and remote areas but also in the case of people with very complex needs.

There are, indeed, significant challenges to be managed in the development of the market including:

- risks of under-supply of needed supports and services where markets are thin, services are under-priced or where significant workforce shortages arise;
- risks of market failure where participants lack the knowledge, skills or information to exercise informed choice;
- risks of service disruption due to provider failure, pointing to the need for greater clarity around 'provider of last resort' arrangements; and
- risks to client safety and the quality of care where new and previously untested providers enter the market, and incumbent providers may change their business models.

Transitional challenges are inevitable when governments embark on a major reform. This reform entails a rapid expansion of the market for the supply of disability support services.

Despite transitional challenges to date on the supply side, a new and expanded market for disability services will offer significant opportunities for disability support providers, workers and, above all, NDIS participants. The attendant risks can be managed with good planning, appropriate regulation and careful monitoring of developments.

A high degree of policy and regulatory certainty both during the transition period and early period of full scheme will be essential to meet these challenges. This includes certainty of regulated price paths – and transparency and independence in how these are set – ahead of any possible transition to market determined prices.

5.1 Provider readiness

The NDIS will dramatically increase demand for disability support from 220 000 to an estimated 460 000 service users once the full scheme is in place.

In anticipation of this surge in demand, the number of service providers seeking to service this market is growing. Between 30 June 2016 and 31 December 2016, the number of approved service providers increased by 45 per cent, from 3 519 to 5 110 out of a total of 8 076 requests (NDIA 2017). 37 per cent of approved service providers nationally are individual/sole traders.⁸ A number of existing providers are also looking to take advantage of the increase in demand to expand their businesses, including through mergers and acquisitions.

Despite signs of market dynamism, many of the difficulties that NDIS participants have experienced to date have arisen as a result of a shortfall in supply of supports that they seek. The challenge of ensuring growth in the supply of disability supports keeps pace with growth in demand engendered by the NDIS is likely to be a predominantly transitional issue in many areas. However, where markets are thin – in rural and remote areas and in services for participants with more complex needs – supply problems and limited choice may persist.

A number of Victorian Sector Development Fund (SDF) funded initiatives are underway, seeking to build capacity in rural and regional communities. However, these alone will not address supply within thin markets without effective pricing and regulatory structures. Victoria is also concerned that the SDF is due to expire in June 2018, when there remain significant capacity building opportunities and capability gaps.

Thin markets – and in some instances a complete absence of supply – could both add to overall scheme costs and reduce scheme effectiveness. Continuation of some block funding arrangements could help ensure a supply of necessary supports in these instances. Direct commissioning for some services, particularly high cost aids and equipment, may also be more cost effective.

There will also be significant challenges for providers adjusting to the new environment and changed funding arrangements.

⁸ National Disability Insurance Scheme (2017) *Report to COAG Disability Reform Council December 2016*

From the provider point of view, research by National Disability Services (NDS)⁹ provides some insight into the extent of disruption the disability services sector faces in the transition to the NDIS. The report draws on data produced from NDS' fourth wave of a national business confidence survey of the disability sector. It highlights some of the financial challenges facing the sector as it transitions to a funding system where demand can be uncertain, some prices are capped and revenue will be received in arrears:

- only just over half (55 per cent) of providers who responded to the survey reported making a profit, 20 per cent broke even and a further 22 per cent made a loss;
- of those that made a profit, only one-third achieved a profit of 4 per cent or more for the 2015-16 financial year;
- only 40 per cent of organisations have budgeted to make a profit in 2016-17 and only 26 per cent expect to achieve a profit of 4 per cent or more; and
- more than two-thirds did not have the minimum recommended cash flow standard of three months or more spending reserves.

This suggests the PC should examine the effectiveness of existing market strategies and consider options to develop a strong and diverse market.

5.2 Workforce constraints

Victoria's disability workforce will need to significantly grow to meet projected demand under the NDIS. The NDIA's 2015 Market Position Statement for Victoria estimates the workforce will need to grow from 19 550-23 900 to 34 400-42 000 full-time equivalent workers in 2019. Workforce shortages could compromise the quality of services provided due to staffing discontinuities and shortages of more skilled and experienced staff.

Data from NDS's 2016 Business Confidence Survey found a quarter of organisations found it extremely difficult to recruit speech pathologists or occupational therapists and a further third found them moderately difficult to recruit. Organisations also reported difficulties in attracting and retaining psychologists and other types of allied health professionals.

However, the fact that employers are having difficulty recruiting these professions does not necessarily imply that they will be in short supply over the longer term as a large number of sole trader health professionals have been applying for registration under the NDIS.

While workforce growth represents a significant challenge for governments and the sector, it also presents an unprecedented opportunity for current and future disability workers. The NDIS will give disability workers greater diversity in job roles, and provide more opportunity to do valued work that directly impacts on the lives of others. It is important governments work closely with the sector, and with skills and training bodies, to capitalise on this opportunity.

The sector's capacity to meet projected demand will also depend on the adequacy and attractiveness of workforce pay and conditions. Pay and conditions will play a key role in attracting workers to the sector, compared to similar roles in other caring sectors such as aged care, health care and community services, and assist to attract and retain staff.

⁹ NDS (2015) *State of the Disability Sector Report*

The Victorian Government's *Keeping our sector strong: Victoria's Workforce Plan for the NDIS* invests \$26 million¹⁰ in developing and growing the disability workforce over the transition to full scheme. The Plan sets out four objectives that will guide Government's actions:

- build intelligence on workforce trends to inform workforce planning and provide an evidence base for the future;
- grow workforce supply by increasing the sector's capacity to attract and retain workers with the right skills and values to meet the growing demand for high quality, individualised support across the breadth of participant needs;
- build workforce capability through quality education and training opportunities to develop a high performing workforce with the knowledge and skills to thrive under the NDIS; and
- maximise opportunities for innovation in practice, service delivery and workforce models, to drive improved outcomes for people with disability.

The Victorian Government is also committed to ensuring that, as the workforce grows, service quality does not diminish. To this end, the Government is implementing a statutory registration and accreditation scheme, which will complement the NDIS Quality and Safeguarding Framework, and help ensure workers have the right skills, qualifications, experience and values for their roles.

With estimates that the workforce will need to more than double between 2013 and 2019, the Australian National Audit Office (ANAO 2016) has called for the Commonwealth Department of Social Services to produce a disability care workforce action plan. Victoria considers such a plan should be developed in consultation with states, providers, peak bodies, the workforce and their representatives, and participants.

5.3 Pricing

The PC should assess the impact of price settings on the supply of services, including the market's ability to meet the need for significant and rapid workforce growth, while meeting scheme quality and safety standards and responding to participant support needs.

Two-thirds of providers surveyed by NDS in 2015 were concerned they would not be able to provide services at the prices being offered under the NDIS and 46 per cent believed they would have to reduce the quality of services in order to deliver at the current prices.

Similar findings are reflected in the Intermediate Report of the NDIS Evaluation, which found many providers claim they cannot provide desired services at the NDIS price (Mavromaras et al 2016, 12).

Both disability service providers and NDIA staff report that, in their experience, demand for disability supports has been exceeding supply. Of concern was the indication by providers that they would start ceasing the provision of some services, which they consider are underfunded under current NDIA cost guidelines. Should such a market response occur, the cessation of these services could exacerbate current market shortages and, possibly, influence the prices of uncapped items and/or the quantities of price-capped items.

¹⁰ Includes \$4.88 million provided by the Commonwealth Government's NDIS Sector Development Fund.

It will be important that the maximum and benchmark prices set by the NDIA are sufficient to secure the supply of quality NDIS funded supports, and in particular give market entrants and established players the certainty needed to conduct effective workforce and service planning. It will also be important that prices are determined with an appropriate degree of transparency, objectivity and independence and that there is certainty for providers about the trajectory of future price levels.

To support this, the PC should:

- examine cost and price challenges experienced by current NDIS providers (i.e. gaps between 'cost to serve' and price); and
- analyse the impact of this gap on provider attitudes and intentions, workforce growth and development, and ultimately service quality (e.g. the scope for employers to fund appropriate training and development).

The PC should consider whether there are lessons from models for setting regulated prices in other industries that could be applied to the disability services sector.

5.4 Participant readiness

It is too early to say how well equipped and how well supported NDIS participants will be to exercise informed choice in this new marketplace. As the disability service market matures, it can be anticipated that intermediaries will emerge to facilitate mutually satisfactory transactions between providers and consumers, often aided by new information and communication technologies and tools.

Appropriate regulatory responses for intermediaries will also need to be determined. In the interim, the readiness of participants to exercise choice is likely to rely heavily on NDIA funded initiatives and programs designed to assist participants navigate the disability support sector. Much of this support infrastructure is yet to be fully rolled out.

The role of advocacy and self-advocacy will continue to be important in building participants' capacity to meaningfully exercise choice. Particularly during transition, some participants may need additional assistance to navigate the planning and plan implementation processes.

Advocacy in Victoria is currently funded through a mix of Commonwealth and State funding. A recent review of the Victorian Disability Advocacy Program highlighted opportunities to strengthen disability advocacy by increasing access, engagement and support for people with a disability and their families; building workforce capacity; improving measurement of performance and outcomes; responding to increasing demand and gaps in service delivery; and a stronger focus on systemic and self-advocacy.

Victoria recommends the PC consider whether the advocacy function needs to be more explicitly recognised in the NDIA framework.

5.5 Regulatory framework

A strong and effective regulatory framework for the disability services market will be essential not only to ensure service quality and participant safety but also to minimise the heightened scope for fraud in a rapidly expanding market place where consumers are particularly vulnerable.

In its 2016 report on the NDIS, the Australian National Audit Office (ANAO 2016, 9)¹¹ emphasised the importance of expediting design and implementation of the quality and safety regulatory framework as an immediate priority.

In February, the Council of Australian Governments (COAG) Disability Reform Council released the NDIS quality and safeguarding framework, which is expected to be implemented in New South Wales, South Australia and the Australian Capital Territory in July 2018 and other states, including Victoria, in July 2019 to coincide with the commencement of full scheme. In the interim, states and territories will maintain their current arrangements and responsibilities to protect people with disability.

Under the framework, the Commonwealth will establish a national registrar function responsible for registering providers and overseeing their compliance with registration requirements. The Commonwealth will also establish a national complaints and serious incidents function, an NDIS Code of Conduct for providers and their staff, and a senior practitioner function to support the reduction and elimination of restrictive practices under the NDIS. The states will continue to authorise and report on the use of restrictive practices in each jurisdiction.

A federated model for worker screening will also be established, with states responsible for implementing worker screening checks in their jurisdictions, and the Commonwealth responsible for working with all governments to develop national policy and standards.

Work is currently underway on detailed design of the national framework, including the development of legislation by the Commonwealth. Through this work, the Victorian Government will continue to advocate for robust quality and safeguarding arrangements, so people with disability continue to experience the same effective protection from harm, and quality assurance of their supports and services, under the NDIS as they do now.

Victoria regards the timeline for detailed design and implementation of the national framework as being highly ambitious. It will be important that jurisdictions, led by the Commonwealth, manage the significant risks around the legislative development timelines, the adequacy of ICT infrastructure and capability, and design a high quality safeguarding system to ensure the rights and safety of people with disability are protected once jurisdictions transition to full scheme.

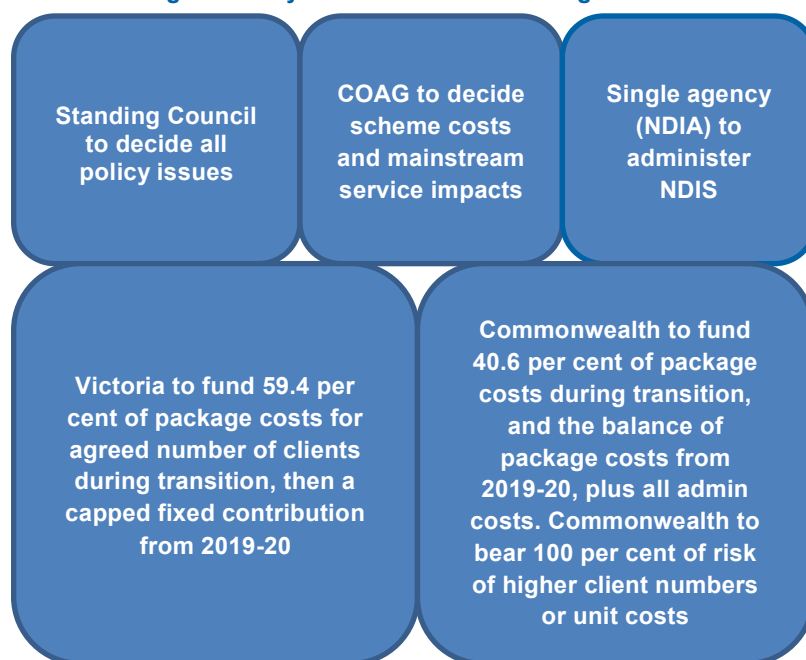
Victoria is committed to implementing a registration and accreditation scheme for the workforce. The scheme will protect vulnerable people from harm and support the development and growth of a quality disability workforce, by ensuring workers who care for people with a disability have the right skills, experience and qualifications.

¹¹ ANAO (2016) *National Disability Insurance Scheme – Management of the Transition of the Disability Services Market*, ANAO Report No 24 2016-17

6. NDIS governance

The 2013 Heads of Agreement between the Commonwealth and the Victorian Governments on the NDIS set out the key responsibilities of the Commonwealth and Victoria in the establishment of the full NDIS, and specified overall funding and governance arrangements, initially for the transition years 2016-17 to June 2019, then for the full scheme from 2019-20 onward. The key elements of the agreement are depicted in Figure 1.

Figure 1: Key elements of Heads of Agreement



Victoria reaffirms its commitment to the central elements of the NDIS scheme design and governance arrangements outlined in the 2013 Heads of Agreement, in particular:

- a centralised national NDIA that hold all funds in a single pool, manages scheme funds, administers access to the scheme and approves the payment of individualised support packages;
- a Standing Council of state and federal ministers as the decision maker on significant NDIS policy issues; and
- COAG as decision maker in relation to scheme costs and implications for mainstream services.

6.1 Commonwealth and states should continue to share policy responsibility

Ongoing governance arrangements for the NDIS should ensure the expertise of states and territories in disability service design and administration continues to be drawn upon in policy development and market design, and in building the capacity of the disability service sector and its workforce. An ongoing policy role for the states is critical to:

- monitoring the interface between the NDIS and mainstream services, particularly for people with very complex needs who rely on a range of services and supports for their overall care;
- promoting continuous innovation and improvement in the provision of disability services;
- ensuring disability services remain responsive to local needs;
- promoting ongoing disability workforce and sector development and training;
- ensuring families and carers are taken into account in developing and delivering disability support services; and
- ensuring the adequacy and portability of quality and safeguarding standards.

Most critically, it must be recognised that the NDIS will continue to operate within an existing service sector where the states are responsible for funding the bulk of mainstream services, including services for NDIS participants, as well as support for those unable to access NDIS supports. The effectiveness of the interface between the NDIS and these mainstream services is critical both to client outcomes and to mitigating financial and service delivery risks for the states.

The states must be part of any decision-making process that determines what will be funded under the NDIS. Given the critical interface between the NDIS and state-funded mainstream services, Victoria considers these arrangements as a necessary safeguard against decisions about the scheme's scope which could result in a significant transfer of costs and risks to state-funded services, and poor outcomes for people with a disability.

6.2 A single national agency

Victoria supports the continuation of a centralised national NDIA. While the overarching governance arrangements must reflect the fact that the Commonwealth and the states will continue to share responsibility for the care and support of people with disabilities, a single national agency offers the best prospect of ensuring the scheme draws on data at the national level, is managed efficiently and that participants are treated equitably and are subject to the same funding principles and assessment processes regardless of the jurisdiction in which they live.

Victoria supports the conclusions of the PC's 2011 Inquiry report that a single national agency provides the best prospects that the scheme would:

- involve a common set of eligibility criteria;
- provide entitlements to individually tailored supports based on the same assessment process;
- provide certainty of funding based on need;

- offer genuine choice over how participants' needs are met (including choice of provider);
- ensure portability of entitlements across borders; and
- have the ability to collect and analyse data on a national level to monitor outcomes and ensure efficiency.

7. NDIS funding

Victoria supports the continuation of a joint approach to funding the NDIS that involves Commonwealth funding of the scheme, supported by contributions from the states and territories agreed bilaterally. This approach is most likely to ensure a sustainable source of funds and offers the best prospect of delivering NDIS objectives effectively and equitably. There is insufficient evidence at this stage to consider any significant change to the current cost and risk sharing arrangements between the Commonwealth and the states in relation to funding the NDIS.

7.1 Funding principles

The NDIS funding arrangements recognise that disability care and support will continue to be a shared responsibility of the states and the Commonwealth.

The Bilateral Agreement Between the Commonwealth and Victoria: Transition to a National Disability Insurance Scheme (the Bilateral Agreement), dated 16 September 2015, highlights the shared nature of responsibility for disability care and support between the Commonwealth and the states, with the states having ongoing responsibility for the delivery of mainstream services, while sharing with the Commonwealth responsibility for NDIS policy and funding, and facilitating the scheme's implementation.

The NDIS was developed against the background of a very high degree of vertical fiscal imbalance within the Australian federal system. In recognition of this, the PC originally recommended the Commonwealth take full responsibility for meeting the entire funding needs of the NDIS in part to *'...reflect the Australian Government's unique capacity to raise efficient and sustainable taxes of the magnitude required'* (PC 2011 35).

In the event it was agreed that the Commonwealth would fund the NDIS, with contributions from states as agreed bilaterally. Reflecting its greater revenue raising powers, the Commonwealth was to bear 100 per cent of the cost risk (at least until full scheme, and then it would bear at least 75 per cent of that risk).

7.2 Risk allocation

Victoria considers this risk sharing arrangement critical to the ongoing scheme's viability.

Current cost and risk sharing arrangements should be maintained as they reflect the reality that the ability of the states to take on any greater financial risk is severely limited. It must also be recognised that the states will continue to bear a significant risk of cost shifting from the NDIS to mainstream, state-funded services.

7.3 Funding adequacy

Governments have committed to fund the reasonable and necessary costs of supports for all those with disabilities who meet the NDIS eligibility criteria. At this stage the PC's estimate of full scheme costs of \$22 billion remains the best available.

Only when the scheme is more fully mature will it be possible to fully understand NDIS costs and judge whether the existing funding envelope is sufficient to deliver on this commitment.

With state contributions to NDIS effectively capped (subject to an indexation arrangement) once the full scheme is rolled out, any significant shortfalls in NDIS scheme funding would need to be met by the Commonwealth.

A move away from the current arrangements that would result in cost shifts or increasing the indexation of the state contribution would add to the revenue burden on states and, by necessary implication, would result in:

- increased reliance on more inefficient state taxes;
- budgetary pressure on mainstream services that participants rely on, and are necessary for the NDIS's sustainability; and
- reversion to the previous rationed and wait-listed disability system that was 'underfunded and inefficient', which needed to compete for budget capacity with other state service delivery obligations.

