

**PRODUCTIVITY COMMISSION POSITION PAPER, NDIS COSTS, JUNE 2017**

**NSW GOVERNMENT SUBMISSION**

PC RECOMMENDATION / FINDING / REQUEST	NSW GOVERNMENT RESPONSE
<b>HOW IS THE SCHEME TRACKING?</b>	
<p><b>2.1 - FINDING</b></p> <p>The scale and pace of the National Disability Insurance Scheme (NDIS) rollout to full scheme is highly ambitious. It risks the National Disability Insurance Agency (NDIA) not being able to implement the NDIS as intended and it poses risks to the financial sustainability of the scheme. The NDIA is cognisant of these risks.</p>	<p>NSW is of the view that the transition timetable does not in and of itself drive financial sustainability risks. The NSW transition timetable has been clear since 2012, providing adequate time for planning and design. The bilateral agreement is designed to ensure that the full NSW contribution to the scheme is available by June 2018. NSW maintains that transition considerations are different to the long term implementation of the NDIS as intended, and that it is critical to ensure that the NDIA is able to manage the implementation in full with clear roles and responsibilities from full scheme in July 2018.</p> <p>The economic benefits of the NDIS for NSW are considerable and governments should work together with the NDIA to ensure that these benefits are fully realised. The scheme will not be in place in NSW until mid-2018, and nationally until 2019. NSW considers that a longer term view of the NDIS and its benefits to Australia should continue to inform all decisions regarding implementation.</p>
<p><b>2.2 - FINDING</b></p> <p>While a different methodology is used, the National Disability Insurance Agency projections of scheme costs are broadly consistent with the Productivity Commission’s modelling of the scheme in 2011, after accounting for sector-specific wage increases, population changes, and costs associated with participants aged over 65 years (who were not included in the Commission’s estimates).</p>	
<p><b>2.3 - FINDING</b></p> <p>The National Disability Insurance Scheme, at the end of trial, came in under budget. This was in large part because not all committed supports were used (in 2015-16 the utilisation rate was 74 per cent). Based on trial and transition data, scheme costs are broadly on track compared to the National Disability Insurance Agency’s (NDIA) long-term modelling. At this stage, early cost pressures (such as greater than expected numbers of children and higher than expected package costs) have been offset by lower than expected levels of utilisation. The NDIA has put in place initiatives to address emerging cost pressures. It is too early to assess the effectiveness of these initiatives.</p>	<p>The intake and profile of children aged 0 to 6 years in the NDIS is different across jurisdictions and reflects the variations in transition phasing, mainstream interfaces, and program intake parameters across jurisdictions. The transitional approach to NDIS Early Childhood Early Intervention in NSW is based on existing NSW programs that include a strong focus on building the capacity of families to access and utilise mainstream and community based support options where appropriate. This includes pre-diagnosis and diagnosis supports to enable families to establish and maintain linkages to mainstream support settings. This is reflected in prevalence rates of children with developmental delay entering the scheme in NSW compared with some other jurisdictions. The NSW experience indicates that the number of children requiring funded NDIS supports, and the level of those supports, should equalise nationally, as the proposed Early Childhood Early Intervention gateway becomes fully operational.</p>
<p><b>2.4 - FINDING</b></p> <p>Early evidence suggests that the National Disability Insurance</p>	

<p>Scheme is improving the lives of many participants and their families and carers. Many participants report more choice and control over the supports they receive and an increase in the amount of support provided. However, not all participants are benefiting from the scheme. Participants with psychosocial disability, and those who struggle to navigate the scheme, are most at risk of experiencing poor outcomes.</p>	
<b>SCHEME ELIGIBILITY</b>	
<p><b>3.1 – RECOMMENDATION</b></p> <p>When determining that an individual is eligible for individualised support through the National Disability Insurance Scheme under the disability requirements, the National Disability Insurance Agency should collect data on which of the activity domains outlined in section 24 of the National Disability Insurance Scheme Act 2013 (Cwlth) are relevant for each individual when they enter the scheme.</p>	
<p><b>3.1 – INFORMATION REQUEST</b></p> <p>The Commission is seeking feedback on the advantages and disadvantages of maintaining ‘List D — Permanent Impairment/Early Intervention, Under 7 years — No Further Assessment Required’ in the National Disability Insurance Agency’s operational guidelines on access. Feedback is sought on the extent to which the list:</p> <ul style="list-style-type: none"> <li>• reduces the burden on families to demonstrate that their child will benefit from early intervention and/or provides certainty that support will be provided</li> <li>• reduces the burden on the National Disability Insurance Agency of assessing whether children are eligible for early intervention support under the National Disability Insurance Scheme Act 2013 (Cwlth)</li> <li>• may be contributing to supports being provided to children who are unlikely to benefit from such supports</li> <li>• may be discouraging or inhibiting exit from the scheme.</li> </ul>	<p>In NSW, early childhood intervention is a ‘designated’ program. This means that there are no obligations on families to provide evidence of disability or functional need where they are current clients of NSW programs, as that evidence has been applied in decisions to enable the child to access those existing supports. This arrangement does not assume that all children will access the scheme. Better use of the ‘early intervention’ provisions in the NDIS Act 2013 is required to optimise outcomes for children and their families transitioning into the scheme through NSW programs.</p>
<p><b>3.2 – INFORMATION REQUEST</b></p> <p>The Commission is seeking feedback on the benefits and risks of maintaining ‘List A — Conditions which are Likely to Meet the</p>	

<p>Disability Requirements in section 24 of the NDIS Act'. In particular:</p> <ul style="list-style-type: none"> <li>• to what extent does List A reduce the burden for people with permanent and significant disability of entering the National Disability Insurance Scheme under the disability requirements?</li> <li>• is there any evidence that people who do not meet the disability requirements are entering the scheme under List A?</li> </ul>	
<b>SCHEME SUPPORTS</b>	
<p><b>4.1 – INFORMATION REQUEST</b></p> <p>Is the National Disability Insurance Scheme Act 2013 (Cwlth) sufficiently clear about how or whether the 'reasonable and necessary' criterion should be applied? Is there sufficient clarity around how the section 34(1) criteria relate to the consideration of what is reasonable and necessary? Is better legislative direction about what is reasonable and necessary required? If so, what improvements should be made? What would be the implications of these changes for the financial sustainability of the scheme?</p>	<p>NSW considers that the use of policy and practice guidelines rather than legislation would afford the NDIA more flexibility in how it applies 'reasonable and necessary' to scheme participants. The NDIS is intended to be a person-centred approach to supporting people with disability. Therefore, there is a need for the governing framework to allow for new and differing approaches to achieve the desired outcome, and this may evolve over time. Further specification of 'reasonable and necessary' in legislation may constrain new approaches to supporting participants.</p>
<p><b>4.2 – INFORMATION REQUEST</b></p> <p>Should the National Disability Insurance Agency have the ability to delegate plan approval functions to Local Area Coordinators? What are the costs, benefits and risks of doing so? How can these be managed?</p>	<p>NSW considers that plan approvals should be performed by NDIA planners. Planners should have the requisite expertise to support participants in identifying their goals, aspirations and support needs. Local Area Coordinators are in place to support a range of other functions including capacity building, pre-planning and local-level service linkage. While a Local Area Coordinator may support the development of a plan, the planning process should be lead, reviewed and approved by appropriately skilled planners in the NDIA. As noted by the Productivity Commission, delegating plan approval to Local Area Coordinators could reduce control and oversight, limit capacity of Local Area Coordinators to perform other functions and blur the boundary of responsibility between the roles. Broadening plan approval functions to Local Area Coordinators could also risk further inconsistency in plans.</p>
<p><b>4.1 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency should:</p> <ul style="list-style-type: none"> <li>• implement a process for allowing minor amendments or adjustments to plans without triggering a full plan review</li> <li>• review its protocols relating to how phone planning is used</li> <li>• provide clear, comprehensive and up-to-date information about how the planning process operates, what to expect during the planning process, and participants' rights and options</li> <li>• ensure that Local Area Coordinators are on the ground six months</li> </ul>	<p>NSW supports these recommendations.</p>

<p>before the scheme is rolled out in an area and are engaging in pre-planning with participants.</p>	
<p><b>4.2 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency should ensure that planners have a general understanding about different types of disability. For types of disability that require specialist knowledge (such as psychosocial disability), there should be specialised planning teams and/or more use of industry knowledge and expertise.</p>	<p>Supported. In fact, NDIA Planners should have a thorough understanding of the different types of disability and the supports that people may need to live their lives. There is likely benefit in considering the use of specialist planners for certain disabilities/support needs (such as psychosocial or specialist disability accommodation supports). If Planners have a thorough understanding about how a person’s disability impacts their life, this has the potential to support more suitable and consistent plan development.</p> <p>Existing State employees have knowledge and experience in relation to disability that is of value in the planning process. The NDIA should maximise employment of State employees that may be displaced as existing State functions are transferred to the Commonwealth/NDIA. Provisions to enable first offer of employment to the agency are within the current NSW bilateral agreement.</p>
<b>BOUNDARIES AND INTERFACES WITH THE NDIS</b>	
<p><b>5.1 – FINDING</b></p> <p>It is a false economy to have too few resources for Information Linkages and Capacity Building, particularly during the transition period when it is critical to have structures in place to ensure people with disability (both inside and outside the National Disability Insurance Scheme) are adequately connected with appropriate services.</p>	<p>NSW supports an enhanced and systematically focussed investment in Information Linkages and Capacity Building as a significant mechanism to maintain scheme financial sustainability. The NSW Ability Links program represents a successful, cost effective model of innovative, community based supports to assist people with disability to live independently of specialist supports. It is fully evaluated, demonstrating a benefit-cost ratio of 3:1.</p>
<p><b>5.1 – RECOMMENDATION</b></p> <p>Funding for Information, Linkages and Capacity Building (ILC) should be increased to the full scheme amount (of \$131 million) for each year during the transition. The funds that are required beyond the amounts already allocated to ILC to reach \$131 million should be made available from the National Disability Insurance Agency’s program delivery budget. The effectiveness of the ILC program in improving outcomes for people with disability and its impact on the sustainability of the National Disability Insurance Scheme should be reviewed as part of the next COAG agreed five-yearly review of scheme costs. The ILC budget should be maintained at a minimum of \$131 million per annum until results from this review are available.</p>	<p>NSW supports an increase in investment for Information Linkages and Capacity Building, but considers that additional funding alone will not achieve the outcomes sought by the Productivity Commission. The NDIA’s commissioning approach should be undertaken in a planned way that initially (in the short term) leverages programs and activities in jurisdictions that have proven impact. The NDIA should deploy a commissioning, rather than a grants-based approach, to ensure that Information Linkages and Capacity Building investment meets the intended outcomes in local communities.</p>
<p><b>5.2 RECOMMENDATION</b></p> <p>The Australian, State and Territory Governments should make public their approach to providing continuity of support and the services they intend to provide to people (including the value of</p>	<p>Under Schedule D of the NSW bilateral agreement, the NDIA is responsible for providing continuity of support through Information, Linkages and Capacity Building. NSW does not agree that States should maintain some form of residual specialist disability system alongside the NDIS. This would be inefficient, duplicate NDIS supports and infrastructure, and create confusion about roles and responsibilities. NSW will,</p>

<p>supports and number of people covered), beyond supports provided through the National Disability Insurance Scheme. These arrangements for services should be reflected in the upcoming bilateral agreements for the full scheme. The National Disability Insurance Agency should report, in its quarterly COAG Disability Reform Council report, on boundary issues as they are playing out on the ground, including identifying service gaps and actions to address barriers to accessing disability and mainstream services for people with disability.</p>	<p>however, continue to invest in supporting people with disability to access mainstream support systems in accordance with the National Disability Strategy (NDS) and the Applied Principles and Tables of Supports endorsed by COAG.</p>
<p><b>5.3 – RECOMMENDATION</b></p> <p>Each COAG Council that has responsibility for a service area that interfaces with the National Disability Insurance Scheme (NDIS) should have a standing item on its agenda to address the provision of those services and how they interface with NDIS services. This item should cover service gaps, duplications and other boundary issues. Through the review points of National Agreements and National Partnership Agreements under the Federal Financial Relations Intergovernmental Agreement, parties should include specific commitments and reporting obligations consistent with the National Disability Strategy. The Agreements should be strengthened to include more details around how boundary issues are being dealt with, including practical examples.</p>	<p>Not supported. NSW does not consider it appropriate for other COAG Councils to resolve boundary or interface issues with the NDIS. Devolving this responsibility to separate COAG Councils will potentially result in a fragmented approach to decision making, and decisions being made without reference to broader NDIS design / impacts. Rather, the Disability Reform Council should have responsibility for considering and agreeing NDIS boundary and interface issues in consultation with other COAG Councils. It is open for other COAG Councils to discuss issues related to the NDIS, to make recommendations to DRC, and for DRC to seek input and guidance from other Councils, but DRC is a more appropriate forum to resolve NDIS issues.</p>
<p><b>5.1 – INFORMATION REQUEST</b></p> <p>The Commission is seeking feedback on a mechanism to ensure that the States and Territories bear the cost of participants who were intended to be covered by the National Injury Insurance Scheme.</p>	
<p><b>PROVIDER READINESS</b></p>	
<p><b>6.1 – RECOMMENDATION</b></p> <p>The Australian Government should:</p> <ul style="list-style-type: none"> <li>• immediately introduce an independent price monitor to review the transitional and efficient maximum prices for scheme supports set by the National Disability Insurance Agency (NDIA)</li> <li>• transfer the NDIA’s power to set price caps for scheme supports to an independent price regulator by no later than 1 July 2019.</li> </ul> <p>The body tasked with price regulation for scheme supports should:</p> <ul style="list-style-type: none"> <li>• collect data on providers’ characteristics and costs. This should</li> </ul>	<p>A well-functioning market requires a robust and transparent pricing framework. This provides certainty in relation to revenue potential for providers, which, in turn, provides an incentive for investment in service offerings (if prices are set at the right level). This work must be prioritised. Specialist Disability Accommodation is especially important. It requires large up-front capital investments, which may be debt funded, and are recovered over a 20 year investment period.</p> <p>Transitional pricing should be considered to ensure that the market has the opportunity to embed the required efficiencies to deliver supports within the insurance model, and to reflect the limitations that the market has to fully form without a full view of consumer demand.</p>

<p>include appropriate funding to continue the business characteristics and benchmarking study currently undertaken by National Disability Services and Curtin University</p> <ul style="list-style-type: none"> <li>• determine transitional and efficient prices for supports at a state and territory level</li> <li>• comprehensively review and publish its price model on an annual basis. This review should be transparent, have public consultation, be evidence-based and evaluate the effectiveness of prices in meeting clearly-defined objectives</li> <li>• assess and recommend when to deregulate prices for supports, with particular regard to the type of support and region, on the basis that prices should only be regulated as narrowly, and for as short a time, as possible.</li> </ul>	
<p><b>6.1 - FINDING</b></p> <p>In a market-based model for disability supports, thin markets will persist for some groups, including some participants:</p> <ul style="list-style-type: none"> <li>• living in outer regional, remote and very remote areas</li> <li>• with complex, specialised or high intensity needs, or very challenging behaviours</li> <li>• from culturally and linguistically diverse backgrounds</li> <li>• who are Aboriginal and Torres Strait Islander Australians</li> <li>• who have an acute and immediate need (crisis care and accommodation).</li> </ul> <p>In the absence of effective government intervention, such market failure is likely to result in greater shortages, less competition and poorer participant outcomes.</p>	
<p><b>6.1 INFORMATION REQUEST</b></p> <p>In what circumstances are measures such as:</p> <ul style="list-style-type: none"> <li>• cross-government collaboration</li> <li>• leveraging established community organisations</li> <li>• using hub and spoke (scaffolding) models</li> <li>• relying on other mainstream providers</li> </ul> <p>appropriate to meet the needs of participants in thin markets? What effects do each have on scheme costs and participant</p>	<p>There is potential for government operated mainstream providers to meet the needs of participants in thin markets given the scale of their existing footprint, and potential capacity for growth. However, this must be part of a conscious market arrangement, jointly agreed by the State and Commonwealth Governments and the NDIA. Mainstream government service providers should be the exception, not the norm. The use of mainstream government service providers should be accompanied with actions to entice non-government operators over time, including those who may not have traditionally supported people with disability. The use of mainstream government service providers has the capacity to prevent the development of a deeper and broader market. Further scoping of direct commissioning / block funding of disability supports to enable the NDIA to access appropriate and targeted supports for participants is required. As is a clear strategy for attracting new non-government operators that can work in those communities to build social</p>

<p>outcomes? Are there barriers to adopting these approaches? Under what conditions should block-funding or direct commissioning of disability supports (including under ‘provider of last resort’ arrangements) occur in thin markets, and how should these conditions be measured? Are there any other measures to address thin markets?</p>	<p>capital, to deliver reasonable and necessary supports and do so in a creative and inclusive fashion. The NDIA needs to play a proactive market stewardship role where there are thin markets. This should align with a clear framework for ensuring available supply through provider of last resort arrangements.</p>
<p><b>6.2 – INFORMATION REQUEST</b></p> <p>What changes would be necessary to encourage a greater supply of disability supports over the transition period? Are there any approaches from other consumer-directed care sectors — such as aged care — that could be adopted to make supplying services more attractive?</p>	<p>More information about demand is required, including location, type, and quantum. Improved price setting arrangements are required (discussed above). And there is likely a need to support/foster the development of IT solutions to allow participants to find providers and review their service offerings.</p>
<p><b>WORKFORCE READINESS</b></p>	
<p><b>7.1 – FINDING</b></p> <p>It is unlikely that the disability care workforce will be sufficient to deliver the supports expected to be allocated by the National Disability Insurance Agency by 2020.</p>	
<p><b>7.1 – RECOMMENDATION</b></p> <p>The roles and responsibilities of different parties to develop the National Disability Insurance Scheme workforce should be clarified and made public.</p> <ul style="list-style-type: none"> <li>• State and Territory Governments should make use of their previous experience in administering disability care and support services to play a greater role in identifying workforce gaps and remedies tailored to their jurisdiction.</li> <li>• The Australian Government should retain oversight of workforce development, including how tertiary education, immigration and aged care policy interact and affect the development of the workforce. In doing so, the Australian Government should pay particular attention to immigration policy to mitigate workforce shortages over the transition period.</li> <li>• The National Disability Insurance Agency should provide State and Territory Governments with data held by the Agency to enable those jurisdictions to make effective workforce development policy.</li> <li>• Providers of disability supports should have access to a clear and consistent mechanism to alert those tasked with market</li> </ul>	<p>NSW has invested significantly in sector-based workforce development strategies to respond to workforce gaps and market the disability sector as an employer of choice. NSW is also investing in vocational education and training to create a workforce pipeline of specialist capabilities to meet the needs of the NDIS. The transfer of state delivered disability services to the non-government sector is also designed to maximise retention of skilled and experienced disability support workers, clinicians and other professionals in the future NDIS market.</p>

development about emerging and persistent workforce gaps.	
<p><b>7.1 – INFORMATION REQUEST</b></p> <p>What is the best way for governments and the National Disability Insurance Agency to work together to develop a holistic workforce strategy to meet the workforce needs of the National Disability Insurance Scheme?</p>	NSW would welcome national dialogue on workforce development, including with unions and employer groups.
<p><b>7.2 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency should publish more detailed market position statements on an annual basis. These should include information on the number of participants, committed supports, existing providers and previous actual expenditure by local government area. The Australian Government should provide funding to the Australian Bureau of Statistics to regularly collect and publish information on the qualifications, age, hours of work and incomes of those working in disability care roles, including allied health professionals.</p>	NSW supports this recommendation and considers the availability of market data to be a key input to the reshaping of the service system to deliver the NDIS.
<p><b>7.3 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency’s (NDIA) guidelines on paying informal carers who live at the same residence as a participant should be relaxed for core supports for the period of the National Disability Insurance Scheme (NDIS) transition. Such payments should be:</p> <ul style="list-style-type: none"> <li>• accessible under clearly defined and public guidelines, which make reference to worker shortages in the relevant market using the NDIA’s information about providers and supports in the participant’s region</li> <li>• set at a single rate determined by the NDIS price regulator in a transparent manner</li> <li>• reviewed by the NDIA as part of plan reviews.</li> </ul>	Supported, subject to appropriate quality and safeguarding arrangements that ensure the rights and decisions of the person with disability are being acknowledged and actioned.
<p><b>7.2 – INFORMATION REQUEST</b></p> <p>How has the introduction of the National Disability Insurance Scheme affected the supply and demand for respite services? Are there policy changes that should be made to allow for more effective provision of respite services, and how would these affect the net costs of the scheme and net costs to the community?</p>	



PARTICIPANT READINESS	
<p><b>8.1 – INFORMATION REQUEST</b></p> <p>Is support coordination being appropriately targeted to meet the aims for which it was designed?</p>	<p>NSW considers that better targeting and development of the support co-ordination market is required prior to the conclusion of transition. The NDIA should implement mechanisms to communicate the purpose of the function. It should engage with the sector to co-design and commission a sustainable and well-networked support co-ordination market. There is likely benefit in specialist support co-ordinators identified for particular groups of participants, such as children and young people, people with psychosocial disability, and Aboriginal participants.</p>
<p><b>8.1 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency should implement the eMarketPlace discussed in the Integrated Market Sector and Workforce Strategy as a matter of priority.</p>	<p>Supported. However, other market-based ICT solutions should also be fostered by the NDIA/Commonwealth.</p>
<p><b>8.2 – INFORMATION REQUEST</b></p> <p>Is there scope for Disability Support Organisations and private intermediaries to play a greater role in supporting participants? If so, how? How would their role compare to Local Area Coordinators and other support coordinators? Are there any barriers to entry for intermediaries? Should intermediaries be able to provide supports when they also manage a participant’s plan? Are there sufficient safeguards for the operation of intermediaries to protect participants?</p>	<p>The role of intermediaries in the NDIS appears undetermined. There is significant potential for inappropriate behaviours (such as inducements and conflicts of interest). Appropriate incentives and protections must be in place to ensure intermediaries do not exert undue influence on participants to seek financial advantage from their funding packages.</p>
GOVERNANCE	
<p><b>9.1 – RECOMMENDATION</b></p> <p>The requirement that changes to National Disability Insurance Scheme Category A Rules have unanimous agreement from the Australian Government and all host jurisdictions should be relaxed.</p>	<p>Agreed. See responses to Section 10.</p>
<p><b>9.2 – RECOMMENDATION</b></p> <p>The Western Australian Government and Australian Government should put in place arrangements for Western Australia to transition to the National Disability Insurance Scheme. Any decision to join the national scheme should be made public as soon as possible.</p>	
<p><b>9.3 – RECOMMENDATION</b></p> <p>The National Disability Insurance Agency should publicly report on the number of unexpected plan reviews and reviews of decisions, review timeframes and the outcomes of reviews.</p>	

<p><b>9.4 – RECOMMENDATION</b></p> <p>The performance of the National Disability Insurance Scheme (NDIS) should be monitored and reported on by the National Disability Insurance Agency (NDIA) with improved and comprehensive output and outcome performance indicators that directly measure performance against the scheme’s objectives. The NDIA should continue to develop and expand its performance reporting, particularly on outcomes, and Local Area Coordination and Information, Linkages and Capacity Building activities. The NDIA should also fill gaps in its performance reporting, including reporting on plan quality (such as participant satisfaction with their plans and their planning experience, plans completed by phone versus face-to-face, and plan reviews). The Integrated NDIS Performance Reporting Framework should be regularly reviewed by the NDIA and the COAG Disability Reform Council and refined as needed.</p>	
<p><b>9.5 – RECOMMENDATION</b></p> <p>In undertaking its role in delivering the National Disability Insurance Scheme, the National Disability Insurance Agency needs to find a better balance between participant intake, the quality of plans, participant outcomes and financial sustainability.</p>	<p>Calls for a slow-down in the pace of transition are not supported. The pace of transition has been specified with regards to implications for participants, providers, workers, State Governments, the NDIA and other stakeholders. The NSW Bilateral agreement sets out a transition staging that focuses on transfer of existing clients and a range of functions, responsibilities and funding from NSW to the Commonwealth, NDIA and providers. The NSW agreement focusses on transition of cohorts of current clients defined by the intensity of the specialist disability supports they receive and the frequency of their access to those services.</p>
<p><b>9.1 – INFORMATION REQUEST</b></p> <p>The Commission is seeking feedback on the most effective way to operationalise slowing down the rollout of the National Disability Insurance Scheme in the event it is required. Possible options include:</p> <ul style="list-style-type: none"> <li>• prioritising potential participants with more urgent and complex needs</li> <li>• delaying the transition in some areas</li> <li>• an across-the-board slowdown in the rate that participants are added to the scheme.</li> </ul> <p>The Commission is also seeking feedback on the implications of slowing down the rollout.</p>	<p>The transition period was not expected to deliver the full benefits of the NDIS. The full benefits of the NDIS are expected to begin to be apparent once the NSW system is fully managed within the new national model. It will take time for the new national market to develop and mature. People with disability need time to build their understanding of the Scheme and to begin to exercise their sovereignty as consumers. It will take time for the NDIA to fully resource and implement all its required functions, capabilities and expertise. It will take time for providers to adapt and bring new service offerings to the market.</p> <p>NSW acknowledges that there have been unforeseen operational issues for the NDIA, which have created challenges for the Agency. This includes the ICT issues experienced by the Agency in the first few months of transition. These challenges had ramifications beyond the first few months of 2016-17. However, the NDIA has worked closely with governments through the Disability Reform Council to manage transition risks. In NSW, robust operational governance arrangements are in place between NSW, the NDIA and the Commonwealth to support transition implementation. And to manage and respond to local and state-wide issues as they arise. The NDIA will be better placed to manage systemic issues once it is able to shift its focus from transition management to full scheme administration.</p> <p>Delaying transition so that full scheme can be fully planned and implemented would result in a protracted transition period and an extended period of duplicated roles and responsibilities between the Commonwealth and States. A slower transition would introduce alternative issues. For example, a slower</p>

	<p>transition would mean a greater number of participants in existing arrangements for longer, and fewer new recipients of disability supports. Slower transition would also mean slower scale-up of demand in the new market, and therefore less incentive for providers to enter the NDIS market or bring new service offerings. While a fast transition means existing providers must adjust, there has been a long lead time. NSW has invested extensively in support for both the sector and in building the capacity of people with disability.</p> <p>A number of transition issues also appear to relate to the resourcing constraints placed on the NDIA (such as staffing caps, limited funding for Information Linkages and Capacity Building and ICT).</p>
<b>FUNDING ARRANGEMENTS</b>	
<p><b>10.1 – FINDING</b></p> <p>The objective of the escalation parameters is not specified in the Bilateral Agreements between the Australian Government and the State and Territory Governments at full scheme. The existing escalation parameters are unlikely to reflect the full increase in National Disability Insurance Scheme (NDIS) costs over time, which would result in the Australian Government bearing a higher share of NDIS costs over time.</p>	<p>As outlined in NSW’s submission to the Issues Paper, the NSW contribution to the NDIS from 2018-19 represents existing and full funding for disability services. It recognises that States have historically been the majority funder of disability services. NSW is providing a fixed funding contribution towards the NDIS. It is not intended to represent a cost share proportion (not a 50/50 funding split); nor a per capita funding commitment; nor a commitment to meet actual costs or activity levels. This is clear in paragraphs 15 and 16 of the Heads of Agreement between the Commonwealth and NSW Governments.</p> <p>Similarly, escalation was intended to represent a fair and fixed rate of growth to NSW’s contribution. Again, it was not intended to maintain a specified cost share basis, nor meet actual cost or activity growth, nor necessarily maintain a real per capita contribution. Rather it was an agreed growth rate based on a fixed population growth factor (1.0%) and a fixed cost escalation factor (2.5% - equal to the RBA long term inflation target).</p>
<p><b>10.1 – INFORMATION REQUEST</b></p> <p>The Commission is seeking views on the role of the escalation parameters in the Bilateral Agreements between the Australian Government and the State and Territory Governments. Should escalation parameters be set on the basis of maintaining a constant real per capita contribution to the National Disability Insurance Scheme by State and Territory Governments; or should they be more explicitly tied to scheme costs so that the proportion of funding allocated to the Australian Government and the State and Territory Governments is maintained over time?</p>	<p>This arrangement recognised the need for NSW to have long term certainty of its funding contributions to the NDIS; and that the Commonwealth would be responsible for administering the Scheme and managing scheme costs (similar to how States previously managed disability services and how they manage the cost of other mainstream services). As identified by the Productivity Commission in its original report, the Commonwealth has a greater capacity to fund the NDIS using its larger and more efficient tax base, and this should be leveraged for managing scheme costs (including growth) into the future.</p> <p>It should be noted that NSW’s fixed contribution to the NDIS may result in relatively higher funding in periods of low inflation, low population growth or controlled scheme costs.</p>
<p><b>10.2 – FINDING</b></p> <p>Responsibility for funding National Disability Insurance Scheme (NDIS) cost overruns should be apportioned according to the parties best able to manage the risk. This is not the case in the transition period, as the Australian Government bears all the risk of any cost overruns, but not all the control. The governance arrangements for the NDIS do not allow the National Disability Insurance Agency to respond swiftly when factors outside its control threaten to impose cost overruns.</p>	<p>As noted above, NSW’s contribution to the NDIS is a fixed contribution. The Commonwealth will be responsible for administering the scheme and managing costs and risks. NSW supports the Commonwealth being provided appropriate controls and changes to governance arrangements for it to undertake this responsibility. NSW will continue to work with the Commonwealth (and other States) on scheme boundaries, interface issues, performance and other issues through the Disability Reform Council and COAG.</p>

<p><b>10.2 – INFORMATION REQUEST</b></p> <p>The Commission is seeking information on the best way to align the ability to control cost overruns with the liability to fund cost overruns. Possible options include:</p> <ul style="list-style-type: none"> <li>• estimating the proportion of cost overruns that the Australian and State and Territory Governments are responsible for and allocating funding responsibility accordingly</li> <li>• altering the governance arrangements of the National Disability Insurance Scheme to give the Australian Government greater authority to manage the risk of cost overruns, to better reflect their funding liability.</li> </ul>	
<p><b>10.1 – RECOMMENDATION</b></p> <p>At full scheme, the annual operating budget for the National Disability Insurance Agency should be set within a funding target of 7-10 per cent of package costs with the expectation that, on average, it would sit at the lower end of the band. The National Disability Insurance Agency should be required, in its annual report, to state reasons why it has not met this target in any given year.</p>	<p>NSW considers that there is a need to enable the NDIA to have greater flexibility over its operating budget to enable it to take account of, and respond to, activity surges during transition.</p>
<p><b>10.2 – RECOMMENDATION</b></p> <p>The Australian Government should reconsider the staffing cap on the National Disability Insurance Agency, given the importance of developing internal capability and expertise.</p>	
<p><b>10.3 – INFORMATION REQUEST</b></p> <p>The Commission seeks feedback on the level of a future contingency reserve that would enable the National Disability Insurance Agency to operate like an insurance scheme, and how this would best be implemented, including any transitional arrangements.</p>	
<p><b>10.3 – RECOMMENDATION</b></p> <p>In-kind funding arrangements should be phased out by the end of transition and should not form part of the intergovernmental agreements for full scheme funding. Should in-kind funding persist beyond transition, jurisdictions should face a financial penalty for doing so.</p>	<p>NSW supports in-principle the phasing out in-kind funding arrangements for full scheme. However, there may be services that are difficult to transfer, are time or resource intensive to administer, require sufficient scale to be efficient, are not efficiently able to be individualised, are services that support a large number of non-NDIS clients, and/or are enmeshed in other service systems. This could mean that some in-kind arrangements may need to continue in-kind in full scheme.</p> <p>Further, NSW does not accept that in-kind arrangements are higher cost. In a number of instances, the in-kind services provide scale and efficiency that could result in lower cost.</p> <p>In some cases, the management/acquittal of in-kind service provision creates additional administrative</p>

workload with no discernible difference in outcomes or benefits for participants. In these circumstances, governments should revisit the Applied Principles and Tables of Support and NDIS funding arrangements.

In some instances, the State is providing the service because other providers have not been willing or capable of supporting the clients (say, with complex needs). The State may be acting as a provider of last resort. For example, State delivered supported accommodation often houses people with more complex needs. This results in a higher average cost, and therefore a higher in-kind price. However, this would be offset by lower average costs for non-government delivered supported accommodation. This is not a cost risk to the scheme. Rather, it reflects a concentration of high cost clients with one provider.

The proposal to impose a financial penalty is somewhat simplistic. Implementation requires development of nationally consistent policy, funding and design arrangements. It requires an agreed phased transition process. This includes significant multilateral work between the NDIA, States and Commonwealth to develop appropriate national models. Therefore, decisions around the transition of responsibility for these services to the NDIS, and the quantum of any in-kind contributions that will remain at full scheme, is not within the sole control of individual States. It is therefore not appropriate that penalties be levied.