



Minister for Communities  
Minister for Disability Services and Seniors

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1 William Street Brisbane 4000  
GPO Box 806 Brisbane  
Queensland 4001 Australia  
Email  
communitiesdisabilitiesandseniors@ministerial.qld.gov.au

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Mr Robert Fitzgerald AM  
Commissioner  
Productivity Commission  
[disability.agreement@pc.gov.au](mailto:disability.agreement@pc.gov.au)

Dear Mr Fitzgerald

Thank you for the opportunity to make a submission to the Productivity Commission's review of the National Disability Agreement (NDA).

The Queensland submission maintains the objectives and outcomes of the NDA remain relevant; however, a new instrument is required which would reflect the current policy environment. While the introduction of the NDIS will double the numbers of people with disability in Queensland able to receive services, this will equate to approximately 90,000 – or 10 per cent – of the 900,000 Queenslanders with disability.

A new instrument would cover all people with disability, set out clear roles and responsibilities of governments, clearly link to the National Disability Strategy beyond 2020 and to the *United Nations Convention on the Rights of Persons with Disabilities*, and focus on ongoing efforts to improve the social and economic participation of all people with disability.

Clear and nationally agreed roles and responsibilities, governance, performance, reporting, accountabilities and escalation mechanisms will be critical to drive significant advances across all aspects of community life to achieve improved outcomes for people with disability, their families and carers. These clear, nationally agreed elements, set out in an overarching instrument to the *NDS beyond 2020*, which Queensland proposes to be an Intergovernmental Agreement, would provide a robust agreement mechanism for the future.

There is opportunity for a new, overarching agreement, covering all people with disability, to focus measures and benchmarks on factors that make the most difference to the quality of life for people with disability, their families and carers, and to provide certainty around data collection, linkages and funding arrangements.

The submission highlights the Queensland Government's commitment to introducing human rights legislation, and some achievements made through Queensland's state disability plan, *All Abilities Queensland: opportunities for all*.

If you require any further information or assistance in relation to this matter, please contact Ms Carolyn Nicholas, Chief of Staff in my office, on (07) 5523 2222.

Thank you for the opportunity to make the submission.

Yours sincerely

**Coralee O'Rourke MP**  
**Minister for Communities and**  
**Minister for Disability Services and Seniors**

Enc (1) Queensland Government submission to the Productivity Commission's review of the National Disability Agreement

# **Productivity Commission Review of the National Disability Agreement (NDA): Issues Paper**

Queensland Government  
submission

October 2018

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## Introduction

This submission provides the Queensland Government's position on key themes in the Productivity Commission's issues paper on the review of the National Disability Agreement (NDA). As such, the submission is structured thematically rather than against each question posed in the issues paper.

### 1) Is a National Disability Agreement required into the future?

#### Queensland considers:

The objective and outcomes of the National Disability Agreement (NDA) were groundbreaking in 2008, focussing as they did on economic and social participation, inclusion, choice, and improved quality of life for people with disability and their families and carers. These remain entirely relevant in the national policy and reform context of 2018;

Eligible people with disability are assisted to participate in social and economic life through reasonable and necessary supports through the National Disability Insurance Scheme (NDIS);

The NDIS alone is insufficient to enable full social and economic participation by people with disability;

The *National Disability Strategy (NDS) beyond 2020 (NDS beyond 2020)* is anticipated to provide a nationally agreed strategic direction to further improve access to, and equitable inclusion and participation in, all aspects of community life, and in this way would complement the NDIS;

The NDA was developed at a time when states had responsibility for disability services for people with disability under 65 years of age, while responsibility for people with disability aged over 65 rested with the Commonwealth. The Commonwealth contributed to state and territory funding of disability services through a National Specific Purpose Payment. The NDA is attached to the Intergovernmental Agreement on Federal Financial Relations. These arrangements are being replaced as the NDIS rolls out: the Commonwealth and states and territories now have shared responsibilities for disability services, and funding arrangements are governed through bilateral agreements. Clear and nationally agreed roles and responsibilities, governance, performance, reporting, accountabilities and escalation mechanisms will be critical for the *NDS beyond 2020* to drive significant advances across all aspects of community life to achieve improved outcomes for people with disability;

A reshaped NDA, in the form of a new overarching Intergovernmental Agreement, setting out these clear, nationally agreed elements as an overarching instrument to the *NDS beyond 2020*, would provide a robust agreement for the future.

The NDA originally focussed on the wellbeing of people with disability and improving outcomes for people with disability, their families and carers. It was developed as one of seven agreements under the Intergovernmental Agreement on Federal Financial Relations to govern the funding of specialist disability services, partially provided through a National Disability Specific Purpose Payment to states and territories. These funding arrangements are being replaced as the NDIS rolls out and financial arrangements are governed by bilateral agreements outlining roles and responsibilities of the Commonwealth and states and territories for the implementation of the NDIS. Further, in 2012, following the introduction of the *National Disability Strategy 2010-2020*, the NDA became more focussed on articulating roles and responsibilities in relation to service delivery, while retaining some areas of policy focus.

The Queensland Government considers the objectives and outcomes of the NDA remain relevant, focussing on economic and social inclusion, choice, and improving quality of life for people with disability, their family members and carers. These continue to be worthwhile goals for all levels of government to work towards, and underpin the objectives of both the NDIS and the NDS.

The Queensland Government considers an agreement overarching the NDS and thereby covering all people with disability is required in the future policy environment, to ensure:

- all governments work together to retain responsibility for outcomes for people with disability of all age groups through the NDS, the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the NDIS
- coverage of the majority of people with disability, who will not be NDIS participants. In Queensland, while an estimated 90,000 people are expected to access NDIS supports, this group represents only 10 per cent of the 900,000 Queenslanders who have some form of disability
- ongoing policy and reform directions for continuity of supports and other residual services to meet the needs of people ineligible for the NDIS
- state and territory governments continuing their commitment to a state disability plan to improve access to mainstream services (health, education, transport, housing and justice) and inclusion in community life into the future
- a coherent link between the NDS, state and territory disability plans, and the NDIS.

An overarching agreement could be established through an Intergovernmental Agreement (IGA). An IGA is appropriate as it is not time-limited and not necessarily related to funding. This overarching agreement would set out the roles and responsibilities, governance, objectives, policy directions, performance framework and benchmarks, reporting, and accountabilities. It would provide a coherent policy framework for all disability reform in the light of significant changes in the policy environment arising from the introduction of the NDIS, and be clearly linked to the UNCRPD.

In particular, such an agreement would set out clear:

- policy priorities
- measurable objectives for each NDS priority
- roles and responsibilities of governments in ensuring mainstream services are accessible for and inclusive of all people with disability
- governance arrangements for all parties
- performance framework and benchmarks to ensure regular measurement of outcomes for people with disability, and their families/carers against predetermined benchmarks
- reporting responsibilities for all parties
- data collection arrangements, including funding, and ongoing improvements to data sets.

A reshaped NDA would have an important role in ensuring there are no gaps in services for people with disability including, but not only limited to, NDIS participants.

The objectives of the overarching agreement should be linked clearly to the policy areas of the NDS, which is currently under review. The policy areas of the existing 2010-2020 NDS are: inclusive and accessible communities; rights protection, justice and legislation; economic security; personal and community support; learning and skills; and health and wellbeing. The *NDS beyond 2020* should clearly articulate the link with the NDIS.

Performance measurement and reporting under the *NDS beyond 2020* could cover outcomes including: improved access to mainstream services for people with disability; choice of housing options and security of tenure; improved learning and health outcomes; experience of safe domestic and family relationships, and of responsive services to people with disability

experiencing domestic and family violence; experience of high quality and safe services; and, improved criminal justice responses.

#### Relationship between a revised NDA and the NDS beyond 2020

Queensland considers the NDS beyond 2020 will be the primary national policy framework guiding all disability activities. The NDA, as an overarching intergovernmental agreement to the NDS, would constitute the mechanism for strengthening governments' accountability for delivering on priorities under that policy.

The NDS would outline high-level directions for reform, while the NDA would commit governments to achieve progress and report against benchmarks linked to these directions. The NDS would set long-term policy priorities while the NDA would provide the mechanisms and accountabilities through which the NDS would be achieved.

The NDA would provide clarity around governance, roles and responsibilities, and performance and reporting to give effect to the NDS.



## 2) Is the NDA an effective accountability mechanism for government actions relating to disability? If not, what are the more effective mechanisms that could be used?

### Queensland considers:

The approach proposed by the Commission to consider the NDA, and other agreements, is supported;

Consideration of other agreements – and their reporting – through the lens of accessibility and inclusion would be critical to enhancing mainstream service responses to people with disability and their families and carers;

Reporting against the objectives of the NDA has been valuable in enabling public visibility of government performance in achieving outcomes for people with disability;

An overarching instrument should have clear alignment between objectives, outcomes and outputs. While public awareness of reporting is important, accountability could be strengthened by including analysis of results and trends, rather than simply publication of data;

The collection and publishing of data, and associated funding arrangements, is not sufficiently dealt with in the NDA. In developing an outcomes-focussed contemporary reporting framework for a reshaped NDA, Queensland considers there are opportunities to make greater steps towards achieving a consistent and streamlined approach to data collection and reporting that measures and compares progress across jurisdictions, and removes duplication and administrative burden.

The approach proposed by the Commission to consider the NDA, and other agreements, is supported. This approach involves considering the separate elements of the agreement - objectives, outcomes, performance indicators, roles and responsibilities, and policy actions - and evaluating these elements through the lenses of clarity, effectiveness, and accountability. All agreements should be assessed in relation to other agreements.

Other government agreements should be assessed through the additional lens of the extent to which they have been based on consultation with people with disability, their families, taken into account their needs, and the extent to which the agreements are consistent with the NDS.

Progress on reforms and activities aiming to improve outcomes for people with disability is reported publicly through:

- Quarterly performance reporting to the Council of Australian Governments (COAG) on implementation of the NDIS
- Communiqués published following each Disability Reform Council meeting, at least twice yearly
- Productivity Commission's Report on Government Services, which includes a chapter on services to people with disability, published annually
- Annual performance dashboard reporting on performance benchmarks from six national agreements, including the NDA. The three disability benchmarks are taken from the three indicators in the NDS, two of which equate to Outcomes A and B of the NDA, with the third benchmark relating to social and community participation.
- Progress reporting on the implementation of the NDS every two years, published following presentation to COAG
- Survey of Disability Ageing and Carers published every three years since 2003



Public reporting has provided important visibility of reform activities. Since 2011, broad disability policy has been driven by the NDS rather than the NDA, and the service access and reform agenda of the NDA has been overtaken by the NDIS.

While progress is being made towards improving access to mainstream services and promoting social and economic participation for all people with disability, results show clearly there is more to be done. The latest performance dashboard shows two of the three indicators (increased labour force participation for people with disability, and reduction in the proportion of people with disability reporting a need for more formal assistance) as “not on track”. The third indicator, participation in social and community activities, is trending down rather than up. An overarching NDA should contain clear responsibilities and accountabilities, as well as escalation mechanisms, when performance benchmarks are not met.

The performance framework of the NDA has been important in focusing attention on the quality of life of people with disability and their families/carers beyond access to disability supports, and on outcomes for key groups including Aboriginal and Torres Strait Islander peoples, people living in rural and remote areas, and people from culturally and linguistically diverse backgrounds

To drive improved outcomes for all people with disability, greater visibility of the reporting is required, together with published analysis of results. As an example, governments entered into a national effort, through bilateral agreements to reduce the numbers of people under the age of 65 in residential aged care over five years (2006-2011). The Australian Institute of Health and Welfare reported annually against the three objectives and performance targets in the bilateral agreements, providing results nationally and by jurisdiction. Governments were committed to meeting targets and the initiative resulted in substantial reductions in the numbers of younger people who were permanently residing in aged care, and a reduction in the numbers of younger people admitted to aged care.

Queensland met or exceeded the targets for the three objectives of assisting people to move from aged care to alternative accommodation; diverting people from entering aged care; and providing disability-specific supports to enhance the quality of life of people who remained in aged care through choice or where no alternative was available.

## **Performance measures**

A new overarching agreement should feature clear alignment between objectives, outcomes and outputs, and include performance measures and benchmarks. In the current NDA, the output “services that assist people with disability to live in stable and sustainable living arrangements” is not clearly linked to any of the performance measures. A future agreement would have a strong focus on reporting against outcomes, clearly linked to the policy areas of NDS beyond 2020.

The measures from the NDA derived from SDAC provide an overview of the quality of life for people with disability and their access to services and to social and economic inclusion.

The SDAC includes measures of access to health services, difficulties in using public transport, and self-reports of feelings of safety and health status, and economic and social participation. The SDAC also contains measures relating to the health, wellbeing and participation of carers. SDAC data could be supplemented by data from the General Social Survey (such as the measure on feelings of satisfaction with life as a whole, contact with people outside the household, and access to health services) and reporting on the health of Australian prisoners with disability.

The 2015 SDAC contained, for the first time, data on people with disability’s experience of discrimination. This could be incorporated in a performance framework for a new overarching agreement as a measure of social inclusion and of how effective reforms have been in promoting and protecting the rights of people with disability.

People with disability are significantly overrepresented in the criminal justice system, with some research indicating approximately 50 per cent of the prison population has some form of

disability. A disability justice reform direction to reduce the proportion of incarcerated prisoners with disability could be incorporated in a new agreement. From 2015, the Australian Institute of Health and Welfare (AIHW) report on the health of Australian prisoners has included data on the proportion of prisoners with disability, collected using a standardised disability flag. A measure relating to prisoners could help focus effort on improving responses of the broader justice system to people with disability.

A new instrument could require the release of more data from the NDIA on topics such as service use, economic and social supports included in plans, and longitudinal data on participant outcomes over time, and the matching of this data with other data sets such as the ABS and AIHW, to create a richer picture of social and economic inclusion for all people with disability.

The data should be reported at a national level and be capable of disaggregation by state/territory. Disaggregation by demographic characteristics should be comparable to the level of reporting in the NDIS.

The NDA performance framework was designed to measure progress against the objective "people with disability and their carers have an enhanced quality of life and participate as valued members of the community". Enhanced quality of life and social participation depends on more than access to specialist disability supports. The performance framework therefore includes measures of participation in social and economic activities and health and wellbeing for people with disability and their carers. These measures remain relevant to measuring outcomes for all people with disability, whether NDIS participants or not.

At present, using SDAC, it is not possible to separate outcomes for people who are and who are not participants in the NDIS. Queensland proposes that consideration be given to including a question in the survey about whether or not a person was an NDIS participant at the time of the survey, noting this may have resource implications.

Under the section on shared roles and responsibilities, the NDA includes the provision of data, including providing data for the national minimum data set (NMDS) and a commitment to the improvement of data. The NMDS will cease when all people receiving state funded/delivered disability services have transitioned to the NDIS. The NDA does not contain a specific commitment to the funding of broader data collection activities to support performance reporting, such as SDAC. A future overarching agreement would clarify arrangements for improving the evidence base, including data development, data collection and information sharing.

The NDA performance framework has focused on access to services and social and economic participation. The framework does not include measures related to the disability workforce or service providers. The NDIS performance framework will include such measures.

In any performance framework, a key issue is to minimise the cost and time burden in reporting, while targeting indicators which are best aligned to the intent of the outcome. For example, an increase in the percentage of people with disability who are employed could be considered an important benchmark, as participation in employment is linked to improved financial security and wellbeing. However, to effectively measure outcomes, reporting on employment would need to provide outcomes-based information on matters such as the employed persons' satisfaction with their job, the hours they are working, and inclusion in their workplace.

A new agreement has the potential to focus measures on factors that make the most difference to the quality of life of people with disability.

### 3) How has the introduction of the NDIS impacted on access to services for people not eligible for the NDIS?

#### Queensland considers:

Issues with access to: affordable, accessible housing and transport; employment opportunities; and health services, continue to impact on social and economic participation for all people with disability;

Moving to a shared disability service delivery environment between the Queensland and Commonwealth Governments, and the lack of clarity in mainstream and NDIS interface service areas, has raised questions over roles and responsibilities.

An instrument overarching the NDS should outline roles and responsibilities at all levels of government in addressing gaps in services for people with disability, noting this agreement would need to be read in conjunction with those national partnership agreements on specific issues such as health, housing and education, and with the *NDIS Act 2013*;

While Queensland is transitioning through its third and final year to the NDIS, unfortunately it is still premature to be confident about the extent to which the NDIS Local Area Coordinators (LACs) and Information Linkage and Capacity building (ILC) activities will benefit people with disability who are not NDIS participants;

Nevertheless, Queensland has actively prioritised reaching out to those who are yet to test their eligibility, and is firming up its residual and continuity of support services for those who are NDIS-ineligible.

The introduction of the NDIS, when fully implemented in Queensland, is expected to double the number of people with disability accessing disability supports. It provides certainty for all Queenslanders that, in the event of acquiring a permanent disability, they will receive reasonable and necessary supports.

Nevertheless, there are approximately 900,000 Queenslanders with a disability, of whom only one-tenth are expected to be eligible for NDIS supports. All people with disability, regardless of whether they are NDIS participants, require mainstream and community services, places, information, education, employment and community activities to be accessible to, and inclusive of, people of all abilities. People with disability have the right to feel safe in their communities and to have their rights promoted and upheld. An overarching instrument would commit parties to ongoing effort to improve the accessibility and responsiveness of all service systems for all people with disability.

The Queensland Government is committed to improving outcomes for all people with disability through its state disability plan for 2017-2020, *All Abilities Queensland: opportunities for all* (AAQ). The plan and associated action plan are available at <https://www.communities.qld.gov.au/disability/state-disability-plan-2017-2020>. AAQ delivers on Queensland's commitments under the NDS and contributes to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). AAQ guides actions to build an inclusive Queensland where every person, including the one in five Queenslanders who have a disability, can thrive and reach their full potential as equal citizens.

AAQ builds on progress already made and guides how Queenslanders can work in partnership with Commonwealth and local governments, the corporate sector, non-government and community organisations, communities, and individuals to provide opportunities for all. The plan complements the implementation of the NDIS in Queensland.



The Queensland Government has committed to introducing human rights legislation, and is reviewing the *Disability Services Act 2006* to ensure a continued strong focus on the human rights of people with disability.

Access challenges remain with mainstream services such as health, housing, and transport. While some of these relate to issues at the interface of the NDIS and mainstream services that are as yet unresolved, challenges with accessibility and understanding of the needs of people with disability to ensure equitable access and inclusion is demonstrated through the 18.2 per cent of Queensland respondents with a disability (aged 5 and over) to the *2015 Survey of Disability, Ageing and Carers*, who reported they were unable to use public transport due to difficulty getting into or out of vehicles or rail carriages<sup>1</sup>.

People with disability who do not meet NDIS access criteria will continue to have access to Queensland Government services such as the Taxi Subsidy Scheme, subject to the eligibility of that scheme. The scheme assists members with half of the total fare, up to a maximum of \$25 per trip. The Queensland Government will also continue to fund low-intensity community care supports for people with disability who are NDIS-ineligible. These services include support to enable people to live safely and as independently as possible in their homes and to connect with and participate in the community.

The movement to build the understanding of mainstream services to improve access through the service making reasonable adjustment, is likely to increase once the full NDIS is in place. This again indicates the significance and importance of an overarching agreement strengthening accountability for NDS key areas.

#### Extent to which LACs and ILC will assist people who do not meet NDIS access criteria

People who do not meet the access criteria for individual support through the NDIS will still be able to access assistance from LACs to link with mainstream services. ILC services aim to develop the capacity of people with disability and their families, and to increase the capability of mainstream services and community activities to include people with disability and their families.

In Queensland's response to the Productivity Commission's Review of NDIS Costs Position Paper, Queensland highlighted the need for cultural competence and capability as an essential pre-requisite to enable Aboriginal and Torres Strait Islander Queenslanders to access the NDIS, including the employment of suitable Aboriginal and Torres Strait Islander planners, LACs and Community Connectors. Queensland also proposed targeting a proportion of ILC funding for Aboriginal and Torres Strait Islander communities.

It is essential LACs understand the cultural, access and language issues for Aboriginal and Torres Strait Islander people. Cultural factors are also likely to require a gender mix among LACs to enable discussions to be held and decisions made in ways that are culturally appropriate; for instance, women's and men's business are likely to be barriers if the planning and engagement processes are not culturally appropriate. It is important for LAC and ILC services to provide culturally safe assistance to Aboriginal and Torres Strait Islander women disclosing a child's disability and their referral to a culturally capable and competent Early Childhood Early Intervention service.

LAC services have now been established across Queensland, however their present focus is on supporting communities to understand and engage with the NDIS and supporting people with pre-planning. A small number of ILC activities have been funded in Queensland to test approaches to help inform the full rollout of ILC into future years; however, services state wide will not be available until 1 July 2019. It is too early to tell to what extent people with disability who are not NDIS participants will be able to access LAC and ILC supports, and what impact this will

<sup>1</sup> 44300DO003\_2015 Disability, Ageing and Carers, Australia: Queensland, 2015, Table 22.3

have on their social inclusion. Due to the pace of activity required to support the entry of 60,000 Queenslanders into the NDIS in this third and final year of transition, LACs are focused on community engagement and pre-planning activities.

#### **4) Has the NDA been effective in shaping and driving policy directions and reform for disability? What are examples of success?**

**Queensland considers:**

Through the NDA, governments have worked together to identify areas for improvement and have made ongoing effort to improve at least some outcomes for people with disability and the disability services available to them;

Examples of success are: the development of greater national consistency in eligibility for specialist disability services; the development of a national Framework for Early Intervention and Prevention; and continued focus on supports for people with complex needs, including reducing the numbers of younger people entering permanent residential aged care;

An agreement overarching the *NDS beyond 2020* would refresh the areas of focus connected to future policy directions and provide clear performance, reporting and accountability mechanisms for achieving real and sustained progress.

The NDA's original focus on reforms to drive social and economic inclusion for people with disability, their families and carers enabled governments to work together to improve access to disability supports, improve the evidence base for effective service delivery, and focus on particularly vulnerable groups such as people with complex needs. When the NDS was released on 13 February 2011, this strategy overtook the NDA's reform directions in relation to improving mainstream services. Queensland has developed state disability plans to link with the policy directions of the NDS. The following examples show how the state plans have contributed to improvements for people with disability in important areas such as accessibility of places and community activities.

The *Building Plan 2017* recognises the importance of inclusive communities and now includes actions to make public toilet facilities accessible for adults with disability, including the provision of a hoist or swing rail, appropriate changing facilities and continence bins. In addition, the Department of Housing and Public Works is working on the National Construction Code to develop a Queensland Development Code that will improve the amenity and quality of life for people with profound disability.

Queensland successfully hosted the Gold Coast Commonwealth Games 2018 by enabling the equitable participation of people and athletes with disability in sport and enabling accessible places and spaces.

The current state disability plan *All Abilities Queensland: opportunities for all* includes a clear target that by 2022, 8 per cent of the Queensland Public Service workforce will comprise people with disability. The department is working closely with the Public Service Commission and other departments to achieve the Government's inclusive employment target through expanding the Queensland *Skilling Queenslanders for Work* initiative in 2017-18 to provide funding to Queensland community organisations to deliver programs to assist job seekers with disability to gain nationally recognised skills and qualifications.

The Department of Agriculture and Fisheries is working with Anti-Discrimination Commission Queensland to develop Unconscious Bias Training which will roll-out across Queensland to staff

involved in recruitment and selection panels. In addition, the Department of State Development, Manufacturing, Infrastructure and Planning is incorporating additional requirements for Reasonable Adjustment in its recruitment and selection policies, staff education and training.