



# **Australian Government**

Australian Government response to the  
Joint Standing Committee on the National Disability Insurance  
Scheme (NDIS) Final Report:

Inquiry into NDIS Planning

February 2021

## Introduction

The Australian Government welcomes the Joint Standing Committee on the National Disability Insurance Scheme's (the Committee's) final report on the Inquiry into National Disability Insurance Scheme (NDIS) Planning (the Report).

The Report contains 42 recommendations to improve the participant experience with the NDIS and support the National Disability Insurance Agency (NDIA) to deliver a transparent, consistent and equitable approach to planning.

The recommendations cover a number of areas including:

- The experience, expertise and qualifications of planners;
- The value of informal supports and the role of families, carers and health practitioners in the planning process;
- The interface between the NDIS and other service systems;
- The planning experience in particular communities of need, such as those in rural and remote communities, Aboriginal and Torres Strait Islander people and those from Culturally and Linguistically Diverse backgrounds;
- The timeliness and transparency of the internal review process; and
- The availability of advocacy support and access to legal services for people seeking external review of NDIA decision-making.

The Government is committed to improving participant experiences with the NDIS and is on track to deliver improvements to the NDIS that make it fairer, simpler and work better for participants, their families and carers. These reforms will help deliver on the promise of the NDIS – to provide people with permanent and significant disability true choice and control over a flexible support package to pursue their goals. They also deliver on the final elements of the Productivity Commission's original design for the NDIS, as well as recommendations of other reviews and inquiries, particularly the 2019 independent review of the *National Disability Insurance Scheme Act 2013* by David Tune AO PSM (Tune Review).

The NDIA has recently concluded a national public consultation process on the design of these reforms and will continue to engage with the disability sector, the broader community, and key organisations to ensure people are informed and can provide ongoing input into the design of these reforms, which will begin to roll out from mid-2021.

The Government supports, or supports-in-principle, 26 of the recommendations made in the Committee's report. Given the ongoing reforms to the planning process being progressed by the NDIA, the Government notes the Committee's remaining 16 recommendations and provides information on the key initiatives underway and planned to address them.

## **Inquiry into NDIS Planning**

### **Recommendations made by the Committee**

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| 1. The committee recommends that the National Disability Insurance Agency provide fully costed, detailed draft plans to participants and their nominees at least one week prior to their meeting with an official with the authority to approve the plan. |
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#### **Supported in principle**

The Government recognises the importance of providing participants with access to information about their plans prior to their planning meeting. Having a draft plan in advance is an important mechanism to ensure decision-making processes are transparent and for keeping the participant at the centre of the planning process, enabling the participant to consider how they might best use their plan funding to meet their goals and aspirations.

The NDIA is reviewing feedback from the national consultation on a new approach to planning, which will be underpinned by the introduction of independent assessments later in 2021. Under the proposed new approach to planning, all participants will receive a costed, draft plan prior to their planning meeting with an NDIA delegate. The NDIA delegate will have authority to approve the overall plan budget, enabling the plan budget to be quickly considered and approved – removing an administrative step in the process that might otherwise delay the funding of appropriate supports. The draft plan will be provided to participants with sufficient time for them to consider how they could use their plan prior to a planning meeting.

The feedback received during the consultation process will help inform the development of the new approach to planning and the policy, legislative and operational design for the use of independent assessments. Timeframes for certain NDIA administrative processes, such as approving a plan, will be legislated in the Participant Service Guarantee later in 2021.

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| 2. The committee recommends that the Australian Government implement Recommendation 3 of the Review of the National Disability Insurance Scheme Act 2013 (the Tune Review). |
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#### **Supported in principle**

The Government agrees with the intent of Mr Tune's recommendations in relation to ensuring participants are supported to navigate the NDIS. The Government and NDIA have committed resources to improve the participant pathway.

For example, from mid-2021, free independent assessments will be a key input used for NDIS access decisions for disability support or early intervention. From late 2021, independent assessments will also be a key input informing the value of a participant's plan budget, allowing planning conversations to focus on supporting participants to make the best use of their funding to meet their needs and pursue their goals and aspirations.

By making independent assessments free, the Government is removing the financial burden of gathering evidence of functional capacity needed to access the NDIS, and ensuring participants have the right assessments to inform access, planning and review decisions. This will ensure all participants, or potential participants, are provided equal opportunity in the NDIS.

In addition:

- the NDIA is currently reviewing the Local Area Coordination (LAC) framework to ensure the Partners in the Community provide effective outreach and referrals.
- \$20 million has been committed to expand the NDIS Community Connectors Program to assist hard to reach communities to navigate the NDIS and assist them in access, planning and plan implementation.
- Under the Department of Social Services, more than \$75 million will be made available in 2020-21 and 2021-22 through two new grant opportunities under the Information, Linkages and Capacity Building (ILC) program and \$64.9 million in ILC grants was announced on 1 September 2020.

The Government will monitor the effectiveness of these reforms before considering whether further investment is needed.

3. The committee recommends that the National Disability Insurance Agency provide caregivers, where they are involved in the planning process, with written information about the types of supports that the National Disability Insurance Scheme can fund to sustain caring arrangements.

### **Supported**

The NDIA has an important role to assist families and carers of people with disability to identify, and in turn engage with or strengthen supports that assist them to maintain their caring roles. The supports they provide their loved one with disability is critical for the facilitation of outcomes of economic and social independence and the pursuit of goals and aspirations.

The Government recognises carers of persons with disabilities should be given access to information about the types of supports available to sustain caring arrangements. The NDIS website already provides written information for carers about the types of NDIS supports available to sustain informal supports, as well as links to external websites such as Carers Australia and the Carer Gateway, where carers can access detailed information about the NDIS planning process. In addition, Partners in the Community can provide information about respite and other supports to sustain informal supports to participants, their representatives and carers throughout the planning process. Partners in the Community can also support participants and caregivers to link with mainstream services, such as the Carer Gateway.

The NDIA will consider the effectiveness of these products in promoting information on supports available to carers, and take into account the implementation of the new planning approach, before considering whether further administrative processes are necessary.

4. The committee recommends that the National Disability Insurance Agency develop, publish and implement a strategy to better support people providing informal supports to participants, particularly caregivers and immediate family members.

### **Noted**

The Government recognises the importance of supporting families and carers, and aims to ensure that carers of all Australians, irrespective of whether they care for people who are NDIS participants, are supported to access the assistance they require to fulfil this important caring role.

The NDIA has worked with Carers Australia to develop internal guidance for NDIA planners and Partners in the Community to support improved outcomes for participants, families and carers by ensuring all planning staff understand the valuable role played by caregivers and families. This detailed guidance to NDIA planners, Partners in the Community and Early Childhood Partners (EC Partners) highlights the importance of sustaining informal supports, the types of NDIS supports available and tips on how to interact with and support carers in planning meetings.

The Government has also recently invested more than \$700 million over five years for carer support services through the introduction of Carer Gateway. The new network of Carer Gateway service providers commenced on 6 April 2020, and places greater emphasis on early intervention and prevention, helping carers access supports and navigate relevant and local services through federal, state and local government and non-government providers, such as My Aged Care and the NDIS.

5. The committee recommends that the National Disability Insurance Agency assign specialised planners to participants who are hospitalised to assist with a smooth transition from hospital to home that enables the participant to access the supports that they need.

### **Supported**

The Government is committed to supporting NDIS participants to transition from hospital as soon as practicable with the necessary supports in place. By the end of December 2020 the NDIA had deployed 24 Health Liaison Officers (HLOs) nationally to improve outcomes for participants and potential participants in health settings, including hospitals. HLOs share their understanding of the NDIS with targeted health services to ensure prospective and existing NDIS participants are supported in their interactions with NDIA and maximise their NDIS outcomes. HLOs also work closely with existing health services to ensure the NDIS access process is clear and understood, in order to support timely hospital discharge. In addition, the NDIA provides dedicated planners for those participants whose support needs are complex and require specialist planning expertise.

During the COVID-19 pandemic the NDIA implemented a streamlined approach to hospital discharges where a participant required access to Specialist Disability Accommodation (SDA) if they were eligible. The NDIA has retained this streamlined approach. Under the new approach, HLOs work closely with participants and the SDA sector to match participants with appropriate accommodation vacancies, if eligible, and expedite the planning process, including by identifying opportunities to rent or hire assistive technology from state and territory equipment schemes to reduce wait times.

6. The committee recommends that the Commonwealth, states and territories, through the appropriate inter-governmental forum, consider the appropriate division of responsibility for the funding of supports for participants in the criminal justice system.

### **Noted**

The Government is committed to ensuring the Applied Principles and Tables of Support (the Applied Principles, or APTOS) are applied consistently across the NDIS service system. As agreed by all governments, the APTOS set out the agreed division of service roles and responsibilities between the NDIS and other service systems, including criminal justice systems.

Building on the APTOS, the Commonwealth, in agreement with states and territories, has implemented the following improvements to clarify the justice/NDIS interface:

- Recruited 14 Justice Liaison Officers (JLOs) to assist justice personnel in custodial settings understand the NDIS pathway. JLOs also provide guidance to ensure potential and existing NDIS participants who are approaching release have appropriate NDIS supports in place when they transition back to the community;
- Undertaken awareness raising activities of NDIS and justice systems roles and responsibilities;
- Developed a national process map with the intention of providing greater transparency regarding NDIS timeframes and justice agency touch points to improve planning and implementation of supports;
- Introduced an Information Sharing Protocol in December 2019 to assist with the delivery of protected information, both with and without the consent of the person to whom the information relates, where to do so is in the public interest;
- Developed formal data sharing agreements;
- Rolled out an NDIA strategy to strengthen relationships between Aboriginal and Torres Strait Islander justice settings; and
- Commenced improving data on justice settings through linkages of Commonwealth and state data in the National Disability Data Asset.

The Commonwealth, states, and territories continue to work together on the remaining actions in progress.

For the avoidance of doubt, all governments have agreed that states and territory criminal justice systems continue to be responsible for meeting the needs of people with disability while they are in detention and for reasonable adjustment in such settings. Supports, above reasonable adjustments made by the criminal justice systems, may be funded by the NDIS and accessed by the participant during their incarceration.

7. The committee recommends that the National Disability Insurance Agency develop, publish and implement a strategy for engaging with participants in custody to ensure that these participants:
- a. are not unfairly disadvantaged in planning, and
  - b. are assigned to planners who have the expertise to work with them.

### **Noted**

The NDIA has committed resources to overcome the challenges custodial settings present for supporting people with disability to navigate the NDIS, while appreciating the clear state and territory responsibility for criminal justice settings as set out in the APTOS. This includes the introduction of JLOs in all jurisdictions, undertaking awareness raising activities, and better promotion of standard practices and information sharing in the criminal justice space.

In addition, the NDIA is developing an external resource, Our Guideline – Justice System. This guideline will explain how the NDIA supports participants in the justice system, and include guidance on both applying to become an NDIS participant or remaining as an NDIS participant. It will have information about the typical supports participants can expect from the NDIS while in the justice system and how planning will occur if they are leaving a custodial setting. This guideline is due for publishing before 30 June 2021.

The Government has also commissioned independent research to examine the most effective methods and processes for identifying and assessing disability among Aboriginal and Torres Strait Islander prisoners in all jurisdictions. The final report is expected to be provided to Government in mid-2021, and will provide valuable understanding of this cohort and how to effectively support them in the custodial setting and reintegrate into the community.

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| 8. The committee recommends that the National Disability Insurance Agency publicly report on its progress in implementing the strategy outlined in Recommendation 7. |
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### **Noted**

The Government recognises the importance of timely and accurate data collection on participants in the justice system. Improved interface and data sharing between NDIS and state and territory justice systems are being negotiated and defined, in line with Commonwealth, state and territory disability ministers' agreed timeframes. Once improved data collection is available, the NDIA will determine what data (quantitative and qualitative) to include in its comprehensive Quarterly Reports to disability ministers.

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| 9. The committee recommends that the National Disability Insurance Agency provide further training for planners about how participants can access services outside the National Disability Insurance Scheme. |
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### **Supported**

The Government recognises the importance of ensuring NDIS participants can access mainstream and community supports. The introduction of independent assessments from 2021 will enable Partners in the Community to shift from being involved in planning discussions to focus on advising people with disability and their families and carers on available mainstream and community supports and assisting them to connect with these services. This coordination and facilitation role was originally proposed by the Productivity Commission in its 2011 Disability Care and Support Inquiry Report.

In anticipation of this shift in approach, the NDIA is delivering a new starter capability and development program to the Partners in the Community, which includes a topic on innovative integration of informal, community & mainstream supports to support participants to realise their goals. The NDIA will work closely with its Partners in the Community throughout the rollout of the new approach to planning to ensure they have the required skills and capabilities.

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| 10. The committee recommends that the Australian Government ensure that the resourcing for the National Disability Insurance Agency and its Partners in the Community is sufficient to enable planners to collaborate effectively with different service systems throughout the planning process. |
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### **Supported**

In the 2020-21 Budget, the Government announced it will support expenditure of an additional \$709.5 million over three years to the NDIA for work to improve flexibility, consistency and certainty for NDIS participants in response to the Tune Review and to support continued efforts to improve the participant experience.

This funding will also ensure recent improvements to reduce NDIS wait times are maintained and the NDIA and the Partners in the Community are appropriately staffed to ensure positive experiences for every person with disability.

The Government has and will continue to monitor and adjust resources to meet the needs of the NDIS and the people it supports.

11. The committee recommends that the National Disability Insurance Agency require planners to provide, in planning meetings, personalised material that outlines how the participant could access supports that the National Disability Insurance Scheme will not fund on the basis that the support is available in another service system.

### **Supported**

The Government supports participants being provided with personalised information about how they can most effectively use their plan funding to meet their needs and help pursue their goals and aspirations. This includes identifying how to access mainstream and community supports provided outside the NDIS.

Coordination of NDIS supports with mainstream services is currently undertaken by NDIA staff, Partners in the Community, Early Childhood Partners or NDIS-funded support coordinators, who work with participants to ensure the supports in their plans, including mainstream supports, are meeting their needs. The introduction of independent assessments and plan flexibility from 2021 will refocus the Partner in the Community role towards plan implementation, including connection and coordination with mainstream services. To support plan implementation in the future, the NDIA will improve its materials to help participants know how to best use NDIS funds, and to access mainstream services and supports not covered by the NDIS. This shift is in line with the original Productivity Commission design of the NDIS.

12. The committee recommends that the Australian Government amend the National Disability Insurance Scheme Act 2013 to clarify that where the CEO of the National Disability Insurance Agency (or their delegate) considers that a support would be more appropriately funded or provided through another system of service delivery or support services, the CEO must be satisfied that this support is in fact available to the participant and that they are likely to be eligible and able to access it.

### **Noted**

The NDIS is intended to complement, not replace, all the services and supports available to people with disability provided elsewhere in government or community. As outlined in the National Disability Strategy, ensuring inclusion of people in their community and enabling them to access the supports they need to realise their full potential is a shared responsibility of all governments, non-government organisations, business and the wider community.

The complementary responsibilities of other service systems was reinforced in the Tune Review, which recommended legislative amendment to clarify that the NDIS is not the vehicle for funding all the supports a person with disability may need. The Government supports this recommendation of the Tune Review and will bring forward legislative amendment to confirm that the NDIS is not the default provider when other systems do not meet their responsibilities to provide supports for people.

13. The committee recommends that where the CEO of the National Disability Insurance Agency (or their delegate) is satisfied that a support is more appropriately funded or provided by another system of service delivery or support services, the National Disability Insurance Agency be required to provide written reasons for this view (and also in an alternative format where appropriate).

### **Noted**

On 28 August 2020, the NDIA released its new Participant Service Charter and Participant Service Improvement Plan, which sets out how the NDIA and its Partners in the Community will deliver participant service excellence and 51 tangible initiatives the NDIA will make to deliver a better experience.

As set out in these documents, the NDIA has committed to giving participants clear reasons for decision-making, using consistent terms and definitions, to the maximum extent possible in the language and mode of communication with which the person with disability is most comfortable.

The NDIA is also in the process of releasing more plain English resources and clearer guidelines and procedures, including revised Operational Guidelines, to help participants better understand NDIA policies and processes, including how it decided a support is most appropriately provided by another system of service delivery.

14. The committee recommends that the Australian Government ensure that funding amounts for supports available under the National Disability Insurance Scheme are consistent with funding amounts under other Commonwealth schemes.

### **Supported in principle**

The Government acknowledges that current funding mechanisms, and resulting pricing regulations, differ across programs such as aged care, disability, veterans care and other supports. This variation is expected as there are important differences in the policy objectives and settings of these programs. Participants and client cohorts that have different needs, different regulatory arrangements and service models are in place and there are different market systems and settings. Any comparison of prices between Commonwealth-funded schemes needs to take into account this broader range of factors and settings.

Price setting in the NDIS is based on a detailed analysis of market conditions and the costs of delivering supports. Specified prices are developed in consultation with the sector and are grounded in an annual financial benchmarking survey in which all providers are able to participate. Regular consultations are also held with other funding schemes.

The Government is committed to the continued development and refinement of the approach to regulation of the NDIS market, including price regulation. The objective of any further refinements will be to ensure the market operates as efficiently and effectively as possible in the delivery of innovative and high quality supports that enable participant independence, participation and inclusion.

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| 15. The committee recommends that the National Disability Insurance Agency investigate ways in which each participant's plan could be shared, with the participant's consent, with their general practitioner. |
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### **Supported in principle**

The NDIA is undertaking a body of work to improve the online participant experience. This will include better interactions with the NDIA, such as a case management capability in the participant portal, which will enable participants to follow the progression of their requests throughout the planning process. The NDIA is also considering other improvements, and will consider Participant Plan sharing with others, including health practitioners, as part of this work. The NDIA will continue to consult with participants and stakeholders to inform and test future improvements.

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| 16. The committee recommends that the National Disability Insurance Agency publish clear and detailed information about its Technical Advisory Branch and expert teams on the National Disability Insurance Scheme website. |
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### **Noted**

The NDIA Technical Advisory Branch and associated teams have a broad team of internal subject matter experts with specialist clinical and technical expertise in various disability and health related fields that may consult with NDIA planners, Partners in the Community and delegates, when they are unsure about particular support types or what supports might be appropriate for a participant. These advisors may also assist a delegate to consult with allied health providers to better understand a participant's support needs and to gain information as required to ensure informed decisions can be made.

These teams are internal enabling teams only, providing individual advice and practice guidance to assist NDIA planners, Partners in the Community and delegates to make informed and appropriate decisions regarding supports for participants. Staff in these teams are not decision making delegates and do not have any participant facing functions and their details are therefore not published on the website.

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| 17. The committee recommends that the National Disability Insurance Agency develop, publish and implement templates for allied health experts to assist them when drafting reports and recommendations for particular supports to be included in participants' plans. |
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### **Supported**

The Government supports the provision of templates to assist allied health experts to draft reports and recommendations for participants. The NDIA publishes templates for a range of reports and assessments, including assistive technology assessments, on the NDIS website. These templates are available for allied health and other experts to download. The NDIA also provides guidance for providers on writing progress reports, and specific guidance for EC providers on how to complete the Early Childhood provider report form.

Templates and guidance on Early Childhood reports and progress reports are currently available at: [www.ndis.gov.au/providers/working-provider/connecting-participants/reporting-and-participant-plan-reviews](http://www.ndis.gov.au/providers/working-provider/connecting-participants/reporting-and-participant-plan-reviews). Assistive technology templates are also available at [www.ndis.gov.au/providers/housing-and-living-supports-and-services/providing-assistive-technology](http://www.ndis.gov.au/providers/housing-and-living-supports-and-services/providing-assistive-technology).

As part of the proposed new approach to planning, the NDIA is currently considering how to best support allied health professionals and other experts to provide information where it is required. The NDIA will incorporate feedback received through sector consultation into the development of resources and materials for allied health professionals and other persons supporting people with disability to navigate the NDIS.

18. The committee recommends that the Australian Government amend the National Disability Insurance Scheme (Supports for Participants) Rules 2013 to require the CEO of the National Disability Insurance Agency (or their delegate) to take into account any expert advice developed specifically for a participant when deciding whether a support would, or would likely, be effective and beneficial for that participant.

#### **Noted**

From late-2021, the outcomes of independent assessments will be a key input into deciding the value of a plan budget. This will mean that the current approach to creating a participant's plan budget will change, with the amount of funding in a participant's plan informed by their functional capacity as determined through an independent assessment, not a listing of individual reasonable and necessary supports. The participant's plan budget will also reflect any relevant environmental factors, including informal supports available to the participant and other contextual factors such as locality and circumstance. This will ensure a consistent approach to providing funding for people with similar levels of functional capacity and in similar circumstances, with the participant supported to then use that funding flexibly to meet their needs.

The emphasis on flexibility and personalised budgeting follows participant feedback that they find their current plans confusing and difficult to understand, and are frustrated by inconsistent decision-making and being unable to buy a particular support if it is not listed in their plan.

This approach will also take into account the expert advice offered by a participant's treating professionals, recognising that that important relationship between professional and participant will not change.

19. The committee recommends that where a participant's plan does not reflect expert advice developed specifically for that participant, the National Disability Insurance Agency be required to provide written reasons for this decision at least one week before any joint planning meeting (and also in an alternative format where appropriate).

#### **Noted**

The NDIA already considers expert advice when determining whether a support is reasonable and necessary, however the CEO must be satisfied that all the criteria in Section 34(1) of the NDIS Act are met.

Section 34(1) of the NDIS Act covers the criteria used by the NDIA for what supports are considered "reasonable and necessary" for the NDIS to cover. For a support considered reasonable and necessary under section 34, a support or service:

- must be related to a participant's disability;
- must not include day-to-day living costs not related to your disability support needs, such as groceries;
- should represent value for money;

- must be likely to be effective and work for the participant; and
- should take into account support given to you by other government services, your family, carers, networks and the community.

Under the proposed new approach to planning, reasonable and necessary budgets will be developed based upon independent assessments of functional capacity, rather than support by support. Participants will see a draft plan prior to their planning meeting which will include draft budgets.

20. The committee recommends that the National Disability Insurance Agency publish information about the training it provides to planners, Local Area Coordinators and Early Childhood Early Intervention partners on the National Disability Insurance Scheme website in an easily accessible location.

### **Supported**

The NDIA already provides information about training provided to its staff and Partners in the Community in the Corporate Plan and Annual Reports, published on the NDIS website and available here: <https://www.ndis.gov.au/about-us/publications>

21. The committee recommends that when conducting recruitment processes for planners, the National Disability Insurance Agency give greater preference to candidates with experience or qualifications in allied health or disability-related areas.

### **Supported in principle**

The NDIA is committed to attracting talented, knowledgeable and experienced staff as well as to providing ongoing investment in building capability and training delivery. This commitment and strategies to deliver on this vision are set out in the NDIA Strategy 2020, which is available on the NDIS website.

The NDIA's approach to workforce management includes the identification and forecasting of skills mix changes to support evolving operational processes and ensure the NDIA has the right capability and resource capacity to deliver the NDIS. The NDIA recruits planners based upon the APS employment principles, taking into account all the qualities of a job applicant to determine their suitability for the role.

The NDIA also considers formal qualifications in allied health or disability and lived experience of disability to be highly desirable in planner recruits. Some planners, such as those within the Early Childhood Early Intervention (ECEI) stream, are required to have allied health qualifications, such as Psychology and Occupational Therapy.

22. The committee recommends that the Australian Government ensure that the National Disability Insurance Agency is sufficiently resourced to meet future planning needs.

### **Supported**

The Government is committed to finalising the rollout of a fully funded NDIS and setting it up for future success.

During 2019-20 the Government announced an increase to the NDIA's average staffing level to support implementation of participant pathway reforms and increase the number of positions able to exercise delegations under NDIS legislation. Over 2019-20, the NDIA's total Australian Public Service (APS) workforce grew from 3,495 to 4,396; a net increase of 901 headcount.

The National Delivery APS workforce was the priority area for the workforce growth and increased by 707 (2,654 to 3,361); predominately in Planning, Access, and Unscheduled Review functions.

This increase in NDIA workforce capability has supported significant improvements to the NDIS participant experience, with reduced wait times and backlogs for access and planning decisions.

The Government has and will continue to monitor and adjust resources to meet the needs of the NDIS and the people it supports.

23. The committee recommends that the Australian Government conduct an inquiry into the workload and changing responsibilities of the National Disability Insurance Agency's Partners in the Community.

### **Noted**

The Government notes that, during the trial and transition phases of the NDIS, there was an understandable focus on ensuring participants had appropriate plans as they moved from state and territory programs into the NDIS. As a result, Partners in the Community and EC Partners were asked to undertake dual roles of planning and coordination for the majority of the NDIS eligible population. The Tune Review noted that there were indications from participants, carers and families that this focus on planning has been at the expense of the original coordination role proposed for Partners in the Community.

The introduction of independent assessments from 2021 will enable Partners in the Community to return to their originally conceived roles by advising people with disability and their families and carers on the available mainstream and community supports and assisting them to connect with these services. This refocus of responsibilities is in line with the original Productivity Commission design of the NDIS.

24. The committee recommends that the National Disability Insurance Agency improve its wait times for children, particularly the time taken to produce a plan following an access decision and to approve assistive technology

### **Supported**

On 26 June 2019 the Government announced several measures to resolve delays for children under the age of seven accessing ECEI supports through the NDIS. Since then, wait times for children have significantly improved. For example in the September 2020 quarter, first plans for participants aged 0-6 were approved, on average, in 34 days. This compares to 129 days in the June 2019 quarter.

The NDIA continues to work closely with its EC Partners to implement a range of ongoing initiatives and improvements to ensure that children continue accessing ECEI supports, including assistive technology where reasonable and necessary, in a timely manner.

25. The committee recommends that the National Disability Insurance Agency develop, publish and implement templates or guidelines to ensure that plans for children and young people take into account key developmental stages and life transition points.

### **Supported**

The NDIA is working to reset its approach to Early Childhood Early Intervention (the ECEI Reset) to be progressively rolled out across 2021 and 2022, informed by the NDIA's consultation on supporting young children and their families early, to reach their full potential.

Amongst the identified areas for improvement, the ECEI Reset will ensure plans support children through key developmental stages and life transition points including beyond early childhood, such as young people graduating from school, through the creation of a dedicated ECEI planner workforce. These dedicated planners will ensure children and families receive expert advice and support. The NDIA will incorporate feedback received through sector consultation on the ECEI Reset into the development of resources and materials for NDIA planners and EC Partners.

26. The committee recommends that the National Disability Insurance Agency:

- increase its family violence training for planners in how to identify family violence and what appropriate referral services exist;
- ask participants before their planning meetings if they have a preference for a planner with a particular gender;
- create a team of specialised planners within the Complex Support Needs pathway who are specially trained in how to plan for participants experiencing family violence; and
- ensure that planners and Local Area Coordinators are able to refer participants who they suspect are experiencing family violence to this pathway.

### **Noted**

The NDIA upholds the Commonwealth, state and territory governments' shared responsibility for effectively responding to family violence and child abuse. As such all new starters in the NDIA complete a mandatory suite of eLearning which includes a module on Family and Gender Based Violence Prevention. Given that the training is mandatory for all those coming into contact with participants, a team of specialised planners in this regard is not judged necessary.

If a participant self identifies as someone experiencing family violence, the Partner in the Community or planner will support them to the correct external pathway, for example Police and/or emergency services. Participants are also able to request a different planner should they not be comfortable for whatever reason including if they have a preference for a planner with a particular gender.

27. The committee recommends that the National Disability Insurance Agency finalise its review into its Aboriginal and Torres Strait Islander Engagement Strategy and update the strategy to address the issues outlined in this report for Aboriginal and Torres Strait Islander participants.

### **Supported**

The Government supported Recommendation 10 of the Tune Review to improve outreach and engagement with cohorts of people with disability, including Aboriginal and Torres Strait Islander peoples.

The Government has also provided an additional \$20 million to support the rollout of the NDIS National Community Connectors Program, which is focused on supporting hard to reach communities to engage with the NDIS.

In line with Recommendation 10 of the Tune Review, the NDIA has reviewed the Aboriginal and Torres Strait Islander Engagement Strategy, and will release an update in early 2021, detailing progress against the Strategy and priority actions to further drive the implementation of the Strategy over the next two years. This strategy will be refreshed in 2022-23, following consultation with key stakeholders.

28. The committee recommends that the National Disability Insurance Agency review its Cultural and Linguistic Diversity Strategy and update it to address the issues outlined in this report.

### **Supported**

The Government supported Recommendation 10 of the Tune Review to improve outreach and engagement with cohorts of people with disability, including people with disability who are culturally and linguistically diverse.

The Government has also provided an additional \$20 million to support the rollout of the NDIS National Community Connectors Program, which is focused on supporting hard to reach communities to engage with the NDIS.

In line with Recommendation 10 of the Tune Review, the NDIA has reviewed the Cultural and Linguistic Diversity Strategy, and will release an update in early 2021, detailing progress against the Strategy and priority actions to further drive the implementation of the Strategy over the next two years. This strategy will be refreshed in 2022-23, following consultation with key stakeholders.

29. The committee recommends that the National Disability Insurance Agency publish information about the Complex Supports Needs pathway, including about who is eligible, and how the National Disability Insurance Agency defines the term 'complex support needs'.

### **Supported in principle**

The NDIA developed the Complex Supports Needs (CSN) Pathway in November 2018 to provide specialised support for people with disability who experience personal and situational factors that are beyond the scope of the typical NDIS Pathway.

The NDIA is currently reviewing the CSN Pathway. Following the outcome of the review, the NDIA will consider including more detailed information on the Complex Support Needs pathway on its website. This is in line with the NDIA's commitment to transparency under the NDIS Participant Service Charter to ensure information provided to participants, their families and support networks, including content on the NDIS website, is easy to access and understandable.

30. The committee recommends that the National Disability Insurance Agency develop and implement a mechanism to encourage planners to develop specialisation in particular types of disability or particular groups of participants.

### **Noted**

For consistent high quality service provision, the NDIA supports planners and others involved in the planning process being well versed in a broad range of disability types rather than specialising in particular types of disability or particular groups of participants.

For those participants who require specialist planning expertise the NDIA already has a range of specialised internal planning supports, including ECEI as well support from the Technical Advisory Branch. Further specialisation of planners in disability types is not judged necessary beyond the current expertise available to planners.

31. The committee recommends that the National Disability Insurance Agency review its Rural and Remote Strategy 2016–19 and, as part of this process, examine practical solutions to the issues outlined in this report regarding planning for participants in rural and remote areas.

### **Supported in principle**

The Government recognises there are challenges for participants in rural and remote areas. The NDIA will release a position paper in 2021, articulating the NDIA's approach to service delivery in remote Australia.

The NDIA has implemented the NDIS Community Connectors Program which provides improved support for Australians with disability in rural and urban locations. The program focusses on four specific population groups:

- Aboriginal and Torres Strait Islander communities;
- Culturally and Linguistically Diverse communities;
- people experiencing psychosocial disabilities; and
- ageing parents or carers of people with disability.

Community Connectors are trusted local community members who enable better linkages between people, communities and services. People with disability, their families and carers rely on the responsiveness of Community Connectors to access information and supports required to engage, access and benefit from the NDIS including planning activity.

32. The committee recommends that the Australian Government provide the National Disability Insurance Agency with sufficient resources to ensure that its Administrative Appeals Tribunal Applications and Decisions Division can reduce the amount of time it takes to resolve AAT appeals.

### **Supported in principle**

As part of forthcoming legislative amendments to give effect to the recommendations of the Tune Review, the Government has committed to improving the NDIA's administration of reviews to deliver a better experience for participants. This includes through legislating timeframes for internal reviews to be completed, in the form of the NDIS Participant Service Guarantee, and removing unnecessary prescription around the process for giving effect to changes to a plan.

Since the NDIA's Administrative Appeals Tribunal (AAT) early resolution model commenced in December 2018 there has been a significant reduction in timeframes to resolution of AAT planning applications, from an average of 200 days pre-December 2018, to 105 days for July-September 2020.

This data indicates a significant and continuing reduction in average resolution timeframes during a period in which the AAT caseload increased threefold (which is commensurate with the growth in the Scheme). Resolution timeframes remain low relative to other AAT Divisions and reflect the Agency's focus on improving the participant experience.

Resolution timeframes are impacted by a range of factors including increasing complexity of cases before the Tribunal, increasing volumes of new cases, challenges obtaining necessary information to assist the Tribunal during the COVID-19 pandemic and moving to online case conferences, conciliations and other AAT proceedings.

The Government has and will continue to monitor and adjust NDIA resources to meet the needs of the people the NDIS supports.

33. The committee recommends that the Australian Government review the amount of funding that it provides to advocacy organisations through the NDIS Appeals program and ensure that these organisations are sufficiently funded to support participants throughout the Administrative Appeals Tribunal process.

#### **Noted**

The Department of Social Services funds the NDIS Appeals program for participants to use when appealing to the AAT, with 42 advocacy organisations and eight Legal Aid Commissions being funded.

The NDIS Appeals program provides participants with:

- access to a skilled disability advocate who acts as a support person; and/or
- access to funding for legal services, if there is a wider community benefit and/or disadvantage that would substantially benefit from legal representation.

In 2020-21, funding for NDIS Appeals program is \$10.67 million. The Department is continuing to monitor demand for NDIS Appeals advocacy support and legal assistance. This includes understanding the impact of reforms such as the NDIA Early Resolution Team, the Participant Service Charter and Participant Service Improvement Plan on the demand for NDIS Appeals program. This will inform advice on appropriate future funding levels.

34. The committee recommends that the National Disability Insurance Agency develop and publish de-identified summaries of key themes arising from settlement outcomes in the Administrative Appeals Tribunal.

#### **Noted**

The AAT generally publishes decisions in relation to the NDIS in accordance with its publication of decisions policy ([Publication of Decisions Policy | Administrative Appeals Tribunal \(aat.gov.au\)](https://www.aat.gov.au/publication-of-decisions-policy)). AAT settlements are not precedent-setting and all cases are considered on their individual merits.

35. The committee recommends that the Australian Government ensure that the National Disability Insurance Agency is sufficiently resourced to carry out the functions outlined in Recommendation 34.

**Noted**

The Government is committed to appropriately resourcing the NDIA so the agency can undertake all its legislated functions.

36. The committee recommends that the National Disability Insurance Agency ensure that it always communicates with participants and their nominees in accessible formats, and in accordance with any participant requests.

**Supported**

The NDIA already undertakes to correspond with participants and their nominated representatives via their preferred means of communication, including for plans and planning related documentation, alerts and reminders. In addition, the NDIA produces communications material for a participant audience in a variety of accessible formats, where appropriate.

The NDIS Participant Service Charter and Participant Service Improvement Plan, sets out how the NDIA and its Partners in the Community will deliver participant service excellence. Under the Participant Service Improvement Plan, 12 initiatives will improve the way the NDIA communicates with participants and how participants are able to access information. These initiatives include the use of plain English reasons for decisions in letters to participants, further public guidance and procedures to support consistent decision-making, and the removal of jargon by using consistent terms and definitions.

The Participant Service Charter commits the NDIA to providing participant service excellence that is transparent, responsive, respectful, empowering and connected. These five engagement principles and Participant Service Guarantee were key recommendations made in the Tune Review.

37. The committee recommends that the National Disability Insurance Agency ensure that it provides participants and the people they bring with them to joint planning meetings with sufficient time to articulate their needs in those meetings.

**Supported**

The NDIA is reviewing feedback from recent consultation on the proposed new approach to planning. Under the proposed new approach, the NDIA or Partner in the Community will contact participants prior to their plan's expiry to determine if they require a full plan review, light touch review, or a plan rollover, based on their circumstances, their goals and how their plan has been working. The NDIA will also conduct check-ins with participants to support the implementation of their NDIS plans in pursuit of a participant's goals.

The NDIA anticipates for many participants, plans will be ongoing and participants will not be required to attend as many planning meetings if their circumstances are unlikely to change. In cases where a full plan review is required, sufficient time will be built into the independent assessment and the planning meeting process, so that participants and the people they bring with them will have time to articulate their needs. Participants will receive a draft plan and be able to discuss this with a delegate prior to the plan being approved.

38. The committee recommends that the National Disability Insurance Agency develop and publish a clear diagram on the NDIS website of the planning process.

### **Supported**

Information about the current planning process is published on the NDIA's website. This information includes understanding supports within an NDIS plan, how to prepare for a planning meeting, using an NDIS plan and reviewing an NDIS plan.

From late 2021, independent assessments will be used as a key input to inform an NDIS plan budget as part of the new approach to planning.

The NDIA has engaged widely with participants, their families and carers, peak bodies, disability organisations, peer and family networks to help develop and test how independent assessments and the new approach to planning will work. This included the release of a consultation paper on the new planning approach for personalised budgets and plan flexibility, also available in Easy Read formats. The NDIA is reviewing feedback received from this consultation to inform the final approach to planning, including how the information will continue to be released to participants, child representatives and carers.

The NDIA will also continue to ensure information released is consistent with its commitment under the Participant Service Charter and Participant Service Improvement Plan to release information that is easy to understand and in accessible formats. This includes publishing further guidance and procedures about the new approach to planning when finalised.

39. The committee recommends that the National Disability Insurance Agency develop a more detailed checklist of documents participants can provide before their planning meeting as evidence for the supports they request. This checklist should be published on the NDIS website and be referred to by planners in planning meetings.

### **Noted**

Three participant booklets are available on the NDIS website and in hard copy to support people with disability and participants to engage with the NDIS. The booklets help people with disability, participants, their families, carers and the wider community to learn more about the NDIS, prepare for a planning meeting and to implement their plan.

In addition to the booklets, participants can access assistance from planners, support coordinators and LACs. The NDIS website also includes a range of information to assist participants to prepare for the planning and planning review process including a detailed section outlining the types of evidence and requirements on providing evidence of disability: [www.ndis.gov.au/applying-access-ndis/how-apply/information-support-your-request/providing-evidence-your-disability](http://www.ndis.gov.au/applying-access-ndis/how-apply/information-support-your-request/providing-evidence-your-disability)

The NDIA frequently updates the website content to ensure it accurately reflects current operational guidelines, policy and practices.

From late 2021, under the proposed new approach to planning, participants' plans will be developed based upon independent evidence of their functional capacity, reducing the need for separate extensive documentation and assessments prior to each planning meeting. To the extent specific documentation is still required for the provision of fixed supports, such as complex assistive technology, NDIA planners, LACs and support coordinators will work with participants and their providers to ensure they understand what evidence is required.

40. The committee recommends that the National Disability Insurance Agency contact new participants and their nominees at least three weeks before their first planning meeting to ensure that they understand what the meeting will involve and how they need to prepare for it.

### **Supported in principle**

The Government recognises the importance of early engagement with participants and their representatives, to support them to prepare for the planning process. Usually, staff members from Partners in the Community or NDIA Business Support Officers contact participants or their representatives prior to their first planning meeting to explain the planning process and what documentation may be required.

While this would usually happen three weeks prior to the first planning meeting date, sometimes that isn't the preferred option of the participant due to their particular circumstances, and the planning meeting may occur within three weeks of initial contact. The Participant Service Guarantee, expected to be legislated in 2021, sets out timeframes for NDIA processes.

41. The committee recommends that the National Disability Insurance Agency develop and implement detailed guidance for planners and delegates about how to engage with participants appropriately during planning meetings and the involvement of third parties including advocates, parents, carers and family members.

### **Supported**

The NDIA provides extensive training and guidance to planners, delegates and Partner in the Community staff about how to engage appropriately with participants and their support networks. All NDIA staff undertake contemporary Disability Rights and Disability Awareness training. Planners and Partners in the Community also attend the New Starter Program, an in-depth training program that develops active listening skills, to ensure participant facing staff can appropriately engage with participants and their nominees and understand their lived experience and the impact of their disability. This formal training references and is supplemented by additional materials and external resources about different disabilities and the impacts of these on participants' lives.

The NDIA has also commenced development of new learning products for staff that will focus on communication, conversation skills, and the importance of ensuring the most appropriate advocates and informal supporters are engaged throughout the planning process. Specific modules are being developed that target components of planning and communication capability. A new Continuous Improvement Connect framework will also contain an element of planner and Partners in the Community soft skill development.

42. The committee recommends that the National Disability Insurance Agency co-design new metrics for measuring participant satisfaction with people with disability and advocacy organisations.

### **Supported**

The Government supports the development of participation satisfaction metrics in conjunction with key stakeholders. Since 2018, the NDIA has conducted a participant satisfaction survey to measure participant satisfaction across each stage of the planning pathway.

The Government supported Recommendation 24 of the Tune Review, which recommended the development of a new independent participant satisfaction survey. The NDIA is working with the Independent Advisory Council to build on the current survey to develop a more comprehensive picture of participant satisfaction. This includes working with people with disability and advocacy organisations and the results will be included in quarterly reports to disability ministers.