

## Chapter 6

### Specialist Disability Accommodation

#### Introduction

6.1 The lack of affordable, appropriate, safe and secure accommodation for people with disability is not a new issue. Parliamentary committees have previously considered the topic in depth.<sup>1</sup> Indeed, this committee, in an earlier iteration, found that a lack of adequate accommodation can limit people's ability to fully exercise their individual choice and control, participate in society, and live an ordinary life like any other Australian.<sup>2</sup>

6.2 This chapter focuses on the introduction of Specialist Disability Accommodation (SDA) as a funded support under the NDIS and how it has impacted the market to date and whether it is likely to achieve its intended outcomes.

#### SDA and the NDIS

##### *What is SDA*

6.3 SDA refers to a new form of capital funding for NDIS participants. SDA is intended for NDIS participants who require a specialist dwelling that reduce their need for person-to-person supports, or improve the efficiency of the delivery of person-to-person supports.<sup>3</sup>

6.4 SDA does not refer to the support services, but instead to the homes in which these services are delivered.<sup>4</sup>

6.5 SDA support is only available to participants who have an extreme functional impairment or very high support needs most appropriately met by an SDA response.<sup>5</sup>

6.6 Like other parts of the NDIS, SDA employs a market-based approach by making funding available to participants who meet the criteria for SDA, who can then source the supports they choose from the market.

6.7 In addition to increasing overall funding for specialist disability accommodation, the introduction of SDA is intended to drive innovation, competition

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1 For example: Joint Standing Committee on the NDIS, *Progress report on the implementation and administration of the National Disability Insurance Scheme*, 12 November 2015; Senate Community Affairs References Committee, *Adequacy of Residential Care Arrangements Available in Australia for Young People with Severe Physical, Mental or Intellectual Disabilities*, June 2015.

2 Joint Standing Committee on the NDIS, *Progress report on the implementation and administration of the National Disability Insurance Scheme*, 12 November 2015, p. 6.

3 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 5.

4 NDIS, *Specialist Disability Accommodation*, <https://www.ndis.gov.au/specialist-disability-accommodation.html> (accessed 6 September 2018)

5 NDIS SDA Rules 2016, paras. 3.1 and 3.4.

and growth in the sector, improve outcomes for participants, and empower individuals to choose where and how they want to live.<sup>6</sup>

### *Size of the market*

6.8 In 2011, the Productivity Commission estimated that around 28 000 people (or 6 percent of NDIS participants) will required SDA funding at full scheme.<sup>7</sup>

6.9 However, in March 2018, the Summer Foundation, Australian Housing and Urban Research Institute, and SGS Economics & Planning, used Australian Institute of Health and Welfare data on state-funded disability service systems to estimate that there are approximately 50 700 people likely to be found eligible for SDA. The figure comprises 17 500 people currently living in supported disability accommodation; 27 000 who are not living in supported accommodation but have very high support needs; and 6200 under the age of 64 who are living in residential aged care.<sup>8</sup>

6.10 In April 2018, the NDIA considered that the Commission's estimate of six per cent to be the best current estimate of the number of participants who will be found eligible for SDA funding, although it acknowledged this may change over time as the Scheme rolls out.<sup>9</sup>

6.11 The Productivity Commission estimated that at full Scheme, from within the NDIS' annual \$22 billion budget, total funding for SDA is expected to total approximately \$700 million per year.<sup>10</sup> According to the Summer Foundation, SDA payments will stimulate around \$5 billion in private sector investment.<sup>11</sup>

6.12 Prior to the launch of the NDIS, it was estimated that there was enough existing accommodation for 15 700, implying the need for enough dwellings to accommodate an additional 12 300 participants.<sup>12</sup>

6.13 These figures vary slightly according to the *SDA Market Insights* report by SGS Economics & Planning and Summer Foundation, which says that 17 500 people currently live in supported accommodation, highlighting an existing gap of 10 500 places across Australia on the basis of current supply.<sup>13</sup>

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6 NDIS, *Specialist disability accommodation*, <https://www.ndis.gov.au/specialist-disability-accommodation> and NDIS Act, s. 4.

7 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 5.

8 SGS Economics & Planning and Summer Foundation, *SDA Market Insights*, 16 March 2018, p. 2.

9 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 5.

10 NDIA, *SDA market information*, <https://www.ndis.gov.au/news/sda-drc-response.html> (accessed 27 February 2018).

11 Summer Foundation, *SDA market information*, <https://www.summerfoundation.org.au/housing/sda-market-information/> (accessed 6 September 2018)

12 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 5.

13 SGD Economics & Planning and Summer Foundation, *Specialist Disability Accommodation: market insights*, p. 2.

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### *How does it work?*

6.14 The NDIS has changed the way SDA funding is provided. Instead of funding SDA through centrally managed capital grant programs that provide block funding to providers, the NDIS provides SDA funding directly to participants after determining their eligibility and appropriate budget amount.<sup>14</sup>

6.15 Funding to participants is based on consideration of their goals and preferences, the reasonable and necessary test, SDA eligibility criteria, and whether SDA represents value-for-money.

6.16 Funding for each eligible participant is included in their NDIS plan, which describes an amount of SDA funding along with a specific Design Category, Building Type and locations.<sup>15</sup>

6.17 The methodology used to determine the appropriate amount of funding for a participant is described in the *SDA Rules 2016*.

6.18 According to the NDIA, an SDA budget that supports a single resident dwelling is only likely to be provided to a very small number of participants.<sup>16</sup> This is because it is not sustainable for the Scheme to maintain participants who require very high levels of support individually in the community.<sup>17</sup>

6.19 Once a participant has been granted SDA in their plan, they can use their funding to apply for tenancy in SDA that is already built or contribute to the costs of their existing family home if it is eligible to be enrolled as SDA and they have enrolled as an SDA provider.

#### *SDA tenancy*

6.20 Participants can use their SDA funding to negotiate a tenancy agreement for accommodation from an SDA provider. In addition to funding in plans, tenants must pay a 'reasonable rent contribution' to the property owner which is 25 per cent of their Disability Support Pension, plus 100 per cent of their Commonwealth Rent Assistance.<sup>18</sup>

#### *Existing family home*

6.21 A participant can choose to use their SDA budget to provide SDA to themselves by enrolling an existing dwelling where they currently live with their partner and children. Participants must register as an SDA provider and enrol the dwelling as SDA compliant for this to occur. A participant who lives in their own

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14 NDIA, *SDA Provider and Investor Brief*, April 2018, pp. 5 and 6.

15 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 6.

16 NDIA, *SDA Provider and Investor Brief*, April 2018, pp. 9 and 13.

17 Specialist Disability Accommodation Pricing and Payments Framework, Section 78.

18 NDIA, *SDA Decision Paper*, June 2016, p. 18.

SDA property is not required to have a written agreement in place and can decide how much of their SDA assistance will pay down loans or other financing costs.<sup>19</sup>

6.22 However, as stipulated in the *SDA Rules 2016*, a parental home (where the participant is the child) is unable to be used for SDA.

#### *How participants find SDA*

6.23 The NDIA does not centrally administer placements for participants, because 'employing a market-based approach to SDA enables greater participant choice and control and encourages provider innovation'.<sup>20</sup> Participants are expected to find and apply for appropriate advertised vacancies, and providers are expected to advertise vacancies and undertake selection processes.

6.24 Most participants with SDA in their plans have funded support coordination and support coordinators can help participants to find advertised vacancies.<sup>21</sup>

6.25 As discussed in Chapter 4, the Provider Finder Tool on the participant portal can also assist participants to find providers.

6.26 The sector has also responded to the need to connect SDA tenants to accommodation by developing online solutions. For example, Northcott has created a platform called NEST, which matches people with disability to a suitable home for their supports.<sup>22</sup> Summer Foundation has developed The Housing Hub—an online platform that lists vacancies for apartments and houses that are owned by housing providers across NSW, VIC, QLD, and SA.<sup>23</sup>

6.27 However, the Summer Foundation argued that, given that SDA is a new way of funding disability housing, more should be done by government to bring the market together.<sup>24</sup>

#### *Types of dwellings*

6.28 Apart from determining SDA eligibility and funding levels for participants, and enrolling compliant dwellings once constructed, the NDIA does not play a role in selecting or endorsing particular property designs or developments. Dwellings are enrolled according to the Building Type specified by the registered provider. Building types include apartments, townhouses, houses and group homes. There are also currently five SDA design categories ranging from Basic to High Physical Support.<sup>25</sup>

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19 NDIA, *SDA Decision Paper*, June 2016, p. 32.

20 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 12.

21 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 12.

22 Northcott, *Submission 68*, p. 6.

23 The Housing Hub, <https://www.thehousinghub.org.au> (accessed 13 August 2018).

24 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, p. 38.

25 NDIS, *NDIS Price guide SDA*, 1 July 2017, p. 12.

6.29 Providers must possess a written certification against the SDA design standards,<sup>26</sup> and dwellings can only be enrolled as SDA once construction is fully complete and a certificate of occupancy has been issued.<sup>27</sup>

### **Barriers to grow the SDA housing stock**

6.30 Inquiry participants have identified a number of barriers, which are impeding development of new SDA dwellings, including:

- Lack of data on SDA demand;
- Restricted choices for participants;
- Inability for young people to move out of nursing homes;
- Lack of clear and consistent information available to investors; and
- Pricing review cycle.

### ***Lack of data on SDA***

6.31 Considerable upfront capital investment is required for SDA development, yet the newness of the policy means there is a lack of historical data for investors to draw upon to inform their decisions. Stakeholders argued that the NDIA could be doing more to enable a thriving SDA market and provide detailed information about potential SDA demand.<sup>28</sup>

6.32 As pointed out by National Disability Services, without granular information on location, building types, and design levels required, properties are at risk of being built where they are not required or there could be reluctance to develop at all.<sup>29</sup> The committee is troubled by reports that a lack of market data might be responsible for discouraging finance from major banks for SDA developments.<sup>30</sup>

6.33 The committee appreciates that the sector is working to fill the gaps in information and undertake research as best it can, however, even the Summer Foundation's recent report on SDA demand is based on 2012 data.<sup>31</sup>

6.34 Indeed, developers in the Townsville region were relying the Productivity Commission's six per cent estimate to calculate approximate demand in the area:

The NDIA's Market position statement Queensland May 2016 identified that the number of people eligible for NDIS plans in the Townsville region by 30 June 2017 was projected to be 5,300. That number, and the Productivity Commission's modelling stating that around six per cent of all

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26 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 11.

27 NDIS SDA Rules 2016, para. 6.10.

28 For example: National Disability Services, *Submission 26*, p. 9; Summer Foundation, *Submission 71*, p. 4.

29 National Disability Services, *Submission 26*, p. 9.

30 National Disability Services, *Submission 26*, p. 9.

31 Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, p. 3.

participants will be eligible for SDA, equates to around 318 eligible participants in the Townsville region.<sup>32</sup>

6.35 Mr Tony Rutherford, Principal, Moores, expressed the view that without clearer information, it will be difficult to get investors on board.<sup>33</sup>

6.36 Mr Luke Bo'sher, CEO, Summer Foundation, suggested that a breakdown of SDA-approved numbers and their requirements by local government area would be helpful:

I think a consistent theme from just about anyone operating in the housing space is that more data would help them to move forward and build more housing. All the NDIA and the Commonwealth have shared is a headline number of 28,000 people across the country. Recently they published a state-level breakdown of how many people had been approved so far, but what we need is much more granular data than that—how many people by local government area have been approved for SDA and what levels of support they need. That would be a huge help to people looking to build SDA, because people want to be building in the right places. They want to be building where people are getting this approved.<sup>34</sup>

6.37 Detailed information on current demand and supply of SDA, dwelling enrolments including building type, design category, location, provider type and occupancy status, and examples of SDA pathways and projects was also requested.<sup>35</sup>

6.38 According to the Agency, it is endeavouring to provide information on supply and demand, and has resolved to provide reliable data as it becomes available.<sup>36</sup>

6.39 As discussed in Chapter 4, The NDIA is working to produce a series of market insight that provide intelligence on specific sub-markets, cohorts and themes. The NDIA planned to publish a *Market Insight into SDA* in the first half of 2018.<sup>37</sup>

6.40 However, at the time of writing, the *Market Insight into SDA* is yet to be published.<sup>38</sup>

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32 Mr Martin Locke, Managing Director, Martin Locke Homes, *Proof Committee Hansard*, 15 March 2018, p. 1.

33 Mr Tony Rutherford, Principal, Moores, *Proof Committee Hansard*, 4 July 2018, pp. 41–42.

34 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, pp. 51–52.

35 Summer Foundation, *Submission 71*, p. 4.

36 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 3.

37 NDIA, *Submission 52*, p. 20; and NDIS, *Market Insights*, <https://www.ndis.gov.au/providers/market-information-useful-links/market-insights.html> (accessed 17 August 2018).

38 NDIS, *Market Insights*, <https://www.ndis.gov.au/providers/market-information-useful-links/market-insights.html> (accessed 6 September 2018)

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### *Committee view*

6.41 As discussed in Chapter 4, the lack of data and market information is clearly a barrier to market development. Private investors are currently lacking information about market size, areas where demands will be high and types of dwellings required to meet demand.

6.42 The committee agrees with stakeholders that the NDIA, as the national market steward, should be taking leadership on the provision of effective market information. Provision of effective market information will improve investor confidence and enable the market to grow to meet the needs of consumers. The committee is of the view that the NDIA should fulfil its information provision role as market steward and provide detailed information about demand and supply of SDA, data on SDA dwelling enrolments including building type, design category, location, provider type and occupancy status; and examples of SDA pathways and projects. The committee is of the view this needs to be current and updated on a regular basis.

### **Recommendation 25**

**6.43 The committee recommends the NDIA publish as a matter of urgency the Market Insights on SDA and commit to publish on an annual basis detailed information on market demands for SDA.**

### *Restricted choice for participants*

#### *Planning process*

6.44 The design category, building type and location a participant can look to reside in is specified in the participant's plan.<sup>39</sup>

6.45 Stakeholders raised concerns that many planners are unsure of the SDA policy and that there is general uncertainty about how SDA can be incorporated into a plan in the absence of a specified dwelling type.<sup>40</sup>

6.46 Northcott reported that some plans are not adequately reflecting participants' needs. It argued that significant stress had been caused to participants and providers as a result of planners not being skilled enough.<sup>41</sup>

6.47 Examples provided included:

- a planner who explained that everyone is eligible for SDA;
- a planner who advised that the SDA Rule 2016 is out-dated and does not reflect the current state of affairs; and
- a planner who expressed concern that if SDA was included before the dwelling was built that the Registered Provider might claim the SDA Payments.<sup>42</sup>

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39 NDIS SDA Rules 2016, part 4, paragraph 4.1.

40 Summer Foundation, *Submission 71*, p. 14.

41 Northcott, *Submission 68*, p. 6.

6.48 According to the NDIA, it is aware of feedback and is 'working to improve SDA planning'.<sup>43</sup>

6.49 Summer Foundation suggested that information sessions for participants be provided by the NDIA to improve their understanding of the SDA framework. It argued that SDA capacity building should focus on assisting tenants to understand and manage their tenancy rights and responsibilities; and building the capacity of mainstream services (such as tenants unions and administrative tribunals) to better respond to the needs of people with disabilities accessing their services.<sup>44</sup>

6.50 Because dwellings can only be enrolled as SDA once construction is fully complete, participants are restricted to choosing from completed dwellings, and developers have no guarantee of buyers until construction is complete.

6.51 Stakeholders argued that the policy is impeding development of high quality SDA by making it unnecessarily difficult to match participants with properties.<sup>45</sup>

6.52 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, highlighted that the current approach may be inadvertently fragmenting housing from support by stimulating the creation of housing without allowing for consideration of support design:

If the intent of the NDIS is to reduce fragmentation and inequity, trying to actually stimulate a market that builds things without knowing who's going in and leaves support design as an afterthought is actually not going to work. We actually need to find ways to make coordination of all the various inputs part of the system, rather than segment and further fragment the way that services are designed for people.<sup>46</sup>

6.53 Mr Dan McLennan, CEO, Summer Housing Ltd argued that developers are currently guessing what participants' functional needs might be:

[M]ost times we don't know what the actual assessment is going to be from a functional perspective, so we're making our best guess about whether or not somebody is a high-physical-support tenant or improved livability or whatever we're trying to shoot for—it's still a guessing game: will the ultimate funding offer match what's been provided, or will it be put back on

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42 Summer Foundation, *Submission 71*, p. 14.

43 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 3.

44 Summer Foundation, *Submission 71*, pp. 4 and 6.

45 For example: Sunnyfield, *Submission 1*, p. 5; National Disability Services, *Submission 26*, p. 9; Summer Foundation, *Submission 71*, p. 14; Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 37; Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 41. Mr Anthony Ryan, CEO, Youngcare, *Proof Committee Hansard*, 4 July 2018, p. 40 and 42; Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, pp. 43–44.

46 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 37.



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us as a business decision for us to lease the accommodation to someone with an offer that doesn't match and for us to bear the loss, as opposed to the individual being funded at a level that matches their choice, their control and their preference?<sup>47</sup>

### ***Participant Approval and Pre-registration***

6.54 In a joint submission to the KPMG review of the SDA framework, 20 organisations, including banks, providers, advocates and people with disability, called for participants to be approved for the subsidy without first requiring a particular housing option. Mr Bo'sher argued that this approach would give greater choice and control to individuals:

People should be approved for SDA and then should be able to shop around with different providers and different vacancies to be able to find the one that's right for them. At the moment that's often not how it's working for people with disability; often they're being told by the NDIA that they have to wait until there's a particular vacancy for them and then the NDIA puts it in their plan. Fundamentally, for us the question is: who should decide where people with disability live?<sup>48</sup>

6.55 Mr Bo'sher argued that prequalification would enable young people in nursing homes, and children living with ageing parents, to approach SDA developers with certainty:

One of the challenges that we were just talking about around young people moving out of aged care is certainly that if we've only got 23 of the 2,000 people in aged care with this subsidy in their plan, that's a real barrier for them leaving. It's a little bit the same with children living with aging parents. It's very hard for them to go and have a conversation with a developer when they're not even clear about whether they're going to get the subsidy or not. So that pre-approval is really critical.<sup>49</sup>

6.56 Further, prequalification would help growth in regional and remote locations by giving developers a clearer indication of the numbers of SDA-approved participants and their requirements:

There are certainly more being built in outer metro areas than in remote areas, because providers have to take a risk in building something and then trying to find someone with a payment who wants to move in. That's where pre-approval of people and people getting approved and then going and looking will make those providers in regional and remote areas much more confident, because they'll actually know who's approved for what in their regional area.<sup>50</sup>

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47 Mr Dan McLennan, CEO, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 49.

48 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, p. 42.

49 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, p. 44.

50 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, pp. 43–44.

6.57 It was also suggested that the NDIA should introduce a mechanism to allow preregistration of dwellings. It was argued that this would assist developers, by mitigating some of their risk, and help participants by providing insight into the supply pipeline:

We believe the NDIA should allow preregistration of new SDA dwellings. This informs the NDIA, as well as participants, of upcoming supply and gives providers and their banks more certainty of dwelling approval. The way it works at the moment is a provider has to go and buy land, get the planning, build the building and get the occupation certificate. Only after all of that significant risk and investment can the dwelling be registered. Therefore, it's a massive risk.<sup>51</sup>

6.58 Mr Simmons explained how it might work in practice:

[A]ll I'm suggesting is that everybody that wants to preregister a dwelling can get a sign-off at plan stage, at construction certificate stage. They get the plans assessed, they get a certificate to say, 'Yes, as long as the builder builds it to that particular specification, it's legit,' and then that way it can be preregistered. Then the NDIA has line of sight: 'Well, that's 12 months away because it takes time to build, but we know this accommodation is coming and where it is,' and they can also then start suggesting to planners and the like to refer people that might be in need.<sup>52</sup>

#### *Restricted choice of living arrangements*

6.59 Stakeholders raised concerns that the current framework disincentivises people with disability from living with their families by funding SDA on a shared basis. In effect, the policy means that SDA providers can make greater returns on their investment by renting, for example, a two bedroom apartment to two people with disability rather than one person with disability and their partner or family.<sup>53</sup>

6.60 Mr McLennan explained that inflexibility in the SDA rules and price guide requires a majority of bedrooms in a dwelling to meet minimum requirements even though every bedroom may not be occupied by someone with disability:

So for...leasing to a participant who has a disability and their partner who does not, I have to have a two-bedroom apartment with two fully compliant bedrooms [...]So there's no capacity to have an apartment with one bedroom that meets all the minimum requirements—it might be platinum standard—and additional bedrooms which do not, to be occupied, for instance, by a participant's partner and their children.<sup>54</sup>

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51 Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, p. 2.

52 Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, p. 3.

53 Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 50.

54 Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 49.

6.61 Mr McLennan argued that the current policy may be inadvertently separating participants from their communities by assuming that people with disability will live with other people with disability.<sup>55</sup>

6.62 Mr McLennan also contended that an additional dwelling category should be created in the price guide to allow individuals to live with their families should they wish to:

We need to create a dwelling category in the SDA price guide that accommodates a scenario...whereby you can have other residents and other bedrooms in a dwelling which don't meet the minimum criteria...So we have some minimum standards but, fundamentally, we don't require the oversized or the platinum-sized bedrooms, for instance, for non-SDA participant residents.<sup>56</sup>

6.63 Mr McLennan suggested that the price guide should be amended to reflect market rent rather than assuming the secondary occupant is receiving SDA:

...from a pricing perspective, we need to look at a price category or a pricing scenario whereby, if you have a family member accommodating with a participant, the drop in price doesn't drop down to assume that the other occupant is receiving SDA but drops down to reflect that they're receiving market rent...if we set it up so the price falls by \$15,000 or something that's closer to a market rental that can be bridged—that's manageable.<sup>57</sup>

6.64 In response to questions from the committee, the Department of Social Services (DSS) advised that, where a participant is eligible for SDA, the NDIA will give consideration to their preferences, including any preference to live alone. The NDIA is also required under the legislation to give consideration to a number of other aspects, which may affect the outcome of a plan decision. For example, the NDIA will give consideration to the most appropriate support model for a participant and how a particular SDA type enables delivery of the model.<sup>58</sup>

### ***Inability for young people to move out of nursing home***

6.65 Inquiry participants pointed out that the introduction of SDA is yet to have any clear impact in supporting young people to move out of aged care facilities. Barriers include inadequate planning process for this cohort and lack of available new SDA stock.

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55 Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 41.

56 Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, p. 50.

57 Mr Dan McLennan, Chief Executive Officer, Summer Housing Ltd, *Proof Committee Hansard*, 4 July 2018, pp. 50–51.

58 DSS, answers to questions on notice, received 20 August 2018.

*Planning process*

6.66 Young people in nursing homes face additional concerns alongside a lack of appropriate housing. The main issue raised by stakeholders focused on underfunded NDIS packages for this cohort.

6.67 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, argued that the Scheme is inappropriately relying on existing aged care standards to define reasonable and necessary supports for residents:

NDIS is the only funder of young people in nursing homes, and yet they're not fully funding their needs. Someone in a nursing home is structurally disadvantaged in getting their needs met compared to someone who's living in the community or in a group home, where the NDIS take a different view. They're almost using a third party, being the aged-care system, to determine what is reasonable and necessary, using measurements and systems that are designed for older people and not fit for purpose at all.<sup>59</sup>

6.68 Mr Blackwood raised concerns that these individuals have unmet health and personal needs because the aged care system was never designed for them:

We don't want the sector or the committee to think that the solution to the young people in nursing homes issue is simply finding places to live. People in nursing homes often have very complex support needs. They live with health issues. They're people with brain injuries that require rehabilitation. There are workforce issues and capacity issues within aged care because aged care was never designed for young people.<sup>60</sup>

6.69 Mrs Deborah Farrell, Senior Advisor Transition Project, Young People in Nursing Homes National Alliance, highlighted that aged care services do not have the capacity to build independence of individuals:

So if someone has come into a nursing home having been in rehab say for six or 12 months, and has continued to build their skills and capacity, they won't necessarily be supported in that way to be prompted and encouraged to shower themselves, to do what they can do for themselves.[...] So we are seeing examples where people will go in from hospital to residential aged care and within three months have very declining skills.[...]. The residential aged-care services don't have the capacity to respond to those individual needs of that younger person to retain what they've gone into residential aged care with. There is no capacity to build on their skills to make them more independent.<sup>61</sup>

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59 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 39.

60 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 38.

61 Mrs Deborah Farrell, Senior Advisor Transition Project, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 43.

6.70 Mr Blackwood argued that the NDIA is neglecting its duty to provide reasonable and necessary support by assuming the current standards are adequate:

...the NDIS has taken a position that it's not funding the additional personal support that people need in nursing homes. The way it's being funded is that they're reimbursing the Department of Health for the aged-care funding instrument amount in nursing homes but no more. So, although they're required under their act to fund reasonable and necessary services, which you'd think is the total quantum of someone's need, they're relying on the aged-care system and the obligations of aged-care providers under the aged-care standards to provide everything that the residents need. So we're seeing a lot of people in nursing homes continue to be underfunded significantly.<sup>62</sup>

6.71 It was also pointed out that, even if residents wished to move out from nursing homes, they are unable to because of limited investment for transition.<sup>63</sup>

6.72 Stakeholders argued that greater effort is required to improve the situation and the interface between the Scheme and other service systems. Mr Anthony Ryan, CEO, Youngcare, provided an example of the current disconnect:

...Youngcare has at-home-care grants in every state of Australia. People can apply for something that will keep them in their home and keep them out of nursing homes, aged care or whatever. A cough assist machine, for example, is something you can't get under your NDIS plan. They say that's part of the health system and the health system comes back and says, 'No, that should be part of your plan.' If you have cerebral palsy or muscular dystrophy and you don't have a cough assist machine, you drown in your own phlegm.<sup>64</sup>

6.73 Stakeholders argued for introducing a specialised and integrated planning pathway that encompasses the disability, health, and housing systems. Mr Blackwood pointed out that the current planning process is inappropriate for this cohort:

You can't just apply a disability-only planning process for people like this. There has to be health, housing and other systems in a joined up planning approach. A significant limitation of the planning design is that it really is only half relevant to this group.<sup>65</sup>

6.74 Mrs Farrell made a similar point:

...there needs to be a whole approach to understanding the needs of that person...I think you could do it as a streamlined approach if the NDIS actually put a body of people together. I think it comes down to policy. It

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62 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 38.

63 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 38.

64 Mr Anthony Ryan, CEO, Youngcare, *Proof Committee Hansard*, 4 July 2018, p. 51.

65 Mr Alan Blackwood, Director, Policy and Innovation, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 51.

does come down to having a process that actually allows those people to be taken through a planning process that is different to maybe the norm.<sup>66</sup>

6.75 Stakeholders argued that there are delays in SDA eligibility approvals by combining the eligibility and dwelling enrolment processes. As a result, only a small number of eligible participants have had SDA approved to date, even among those considered SDA 'priority':

Only 23 of the 2,000 young people in aged care in the scheme have specialist disability accommodation in their plan. Even though those 2,000 people need housing and are a priority group for specialist disability accommodation, so few of them have funding approved that the supply that's in the pipeline is greater than the number of people who have funding for that. We think that's a really important area of focus and framing for this inquiry. The supply side will work. We've seen investors, institutional capital and superannuation funds come to the table and want to invest in this. They just need confidence that the NDIA is going to be approving people for this kind of funding.<sup>67</sup>

### *Committee view*

#### *Choice of living arrangements*

6.76 The committee heard that the current pricing structure may preclude SDA eligible participants from living with their families. By funding SDA on a shared basis, there is a financial incentive for SDA providers to rent their dwellings solely to SDA eligible participants rather than to a SDA eligible participant and their partner or family. The committee is concerned that this is restricting choices of living arrangements for SDA eligible participants.

### **Recommendation 26**

6.77 **The committee recommends the NDIA examine the SDA pricing structure to remove restrictions for participants in their choices of living arrangements.**

#### *Planning process*

6.78 A lack of clear information and guidance from the NDIA about the SDA policy is affecting delivery of high quality SDA. Participants must have access to clear and consistent information and high-quality plans to be empowered in their housing choices. The committee notes that the lack of knowledge of planners around SDA is affecting the quality of plans for participants eligible for SDA. In particular, this is impeding on the ability of young people residing in aged care facilities to move to appropriate SDA accommodation.

### **Recommendation 27**

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66 Mrs Deborah Farrell, Senior Advisor Transition Project, Young People in Nursing Homes National Alliance, *Proof Committee Hansard*, 4 July 2018, p. 51.

67 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, p. 38.

6.79 **The committee recommends that a specialised team of NDIA planners is established to accelerate the transition of young people residing in aged care facilities to appropriate SDA which meets their complex needs.**

*Lack of clear and consistent information available to investors*

6.80 During its inquiry, the committee heard that investor confidence is being compromised by an absence of effective and clear information. Additionally, the uncertainty caused by the scheduled pricing reviews and the upcoming DRC Pricing & Payments Framework Review.

6.81 The committee is frustrated to hear that, two years after SDA commenced being included in plans, there is still a lack of clear, consistent information about the policy and how it operates.<sup>68</sup>

6.82 Inadequate information and support unnecessarily increases the risk of misinterpretation. The committee is concerned by reports that stakeholders are relying on their own interpretation of published material and 'hoping they are interpreting them correctly'.<sup>69</sup>

6.83 The committee heard there have been cases where SDA property owners had entered into agreements with participants who were then subsequently found ineligible for supports.<sup>70</sup>

6.84 The Agency's inability to provide clarity when approached was also criticised.<sup>71</sup> The committee heard that regional NDIA managers are often busy with other matters and that there are no discrete SDA managers for stakeholders to contact for advice.<sup>72</sup>

*SDA Provider and Investor Brief*

6.85 In an effort to improve the clarity of available information, the NDIA released the *SDA Provider and Investor Brief* on 24 April 2018. The brief provides information on:

- price reviews;
- eligibility and funding levels for SDA;
- innovations made possible by SDA funding; and
- dwelling standards and enrolment.<sup>73</sup>

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68 For example: National Disability Services, *Submission 26*, pp. 8–9; Office of the Public Advocate SA, *Submission 57*, p. 5; Summer Foundation, *Submission 71*, p. 4.

69 Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, p. 5.

70 National Disability Services, *Submission 26*, pp. 8–9.

71 For example: Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, p. 6. National Disability Services, *Submission 26*, pp. 8–9.

72 *Proof Committee Hansard*, 15 March 2018, p. 6.

73 NDIA, SDA, <https://www.ndis.gov.au/specialist-disability-accommodation.html> (accessed 25 May 2018).

6.86 Unfortunately, the release of the brief appears to have the opposite intended effect:

What we're sitting on here, nationally, is a situation where you've got others who are lining up, wanting to come in and help and assist, but they're petrified of coming in because they're saying, 'Is it going to be changed once again?' That is the issue that's taking place from an investor-developer perspective... The report [of 24 April] was supposed to create confidence. That was the purpose of it, but it actually did the complete opposite. It stalled. Therefore, any more language that comes out has to be explicit around the type of market you're trying to create.<sup>74</sup>

6.87 The committee heard that some investors chose to freeze their SDA investments following release of the report:

...that day we had a call from four very strong investment groups that a number of the people in this room had been working with over a long period of time. We got a phone call at 4.30 that afternoon from all four of them, saying, 'We are freezing our investment in SDA stock.'[...] it really dented the confidence. The SDA stock and the rollout over the next three or four years is going to rely on confidence and language—strong, confident language—to allow people to be able to understand what the risk is on the investment.<sup>75</sup>

6.88 In response to questions from the committee, the DSS advised that the *SDA Provider and Investor Brief* does not represent a change in policy and that the NDIS Act and the SDA Rules (agreed by all governments) have not changed. The department advised that each plan decision will continue to be made on an individual basis according to the SDA Rules and the NDIS Act. The NDIA will give consideration to any preference to live alone, and is required to give consideration to a number of other aspects, for example, the most appropriate support model for a participant and how a particular SDA type enables delivery of the model.<sup>76</sup>

#### *Pricing reviews*

6.89 All compliant SDA dwellings have a maximum price that the Agency will pay that is based on the dwelling's type, location, size and level of accessibility.<sup>77</sup> These price limits provide a ceiling up to which participants can negotiate with SDA providers.<sup>78</sup>

6.90 Scheduled pricing reviews are intended to assess whether the formula remains adequate, reflects the costs of providing SDA, and provides an attractive rate of return to investors. The first review will focus on the broader policy surrounding SDA

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74 Mr Anthony Ryan, CEO, Youngcare, *Proof Committee Hansard*, 4 July 2018, pp. 42–47.

75 Mr Anthony Ryan, Chief Executive Officer, Youngcare, *Proof Committee Hansard*, 4 July 2018, p. 40 and 42.

76 DSS, answers to questions on notice, received 20 August 2018.

77 NDIA, *NDIS Price Guide for SDA*, 1 April 2017, p. 3.

78 NDIA, *SDA Provider and Investor Brief*, April 2018, pp. 6–7.



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pricing and payments, and assess whether the policy has been successful at stimulating supply. The *SDA Pricing and Payments Framework* review is due to be completed in August 2018 and to report to the Disability Reform Council in September 2018.<sup>79</sup>

6.91 After this, periodic pricing reviews are scheduled to be conducted every five years by the NDIA, with price limit changes from the first review to apply to all dwellings from 2021. According to the Agency, the review cycle is intended to strike a balance between providing investment surety and ensuring price regulation arrangements are sufficiently flexible to accommodate new data.<sup>80</sup>

6.92 The review cycle received criticism for discouraging investors and financiers and inhibiting SDA growth. Summer Foundation pointed out that reviewing the pricing framework within three years and reviewing prices every five years means that a project on the drawing board today to be completed in 2019 provides only two years of price certainty.<sup>81</sup> A case example was provided from an SDA developer:

(We) had a potential private investor interested in a multiple dwelling SDA development. They own land which would have been suitable in a good location and would have funded the project. We had many discussions with them and they were very keen. Unfortunately when they investigated the detail of the SDA Payments and they saw the risk associated with not knowing what would happen to SDA Base Rates after the 2021 (5 year) Price Review they lost interest in the project and pulled out.<sup>82</sup>

6.93 Mr Simmons told the committee that developers would rather wait than begin SDA projects in the current landscape:

Anecdotal evidence suggests that new SDA supply has stalled nationally. I hear lots of feedback that potential SDA providers are sitting back and watching because it's too risky to build right now.<sup>83</sup>

6.94 Scope Australia argued that in order to attract institutional investment, SDA payments should be made at a guaranteed rate for twenty years rather than five as is the current arrangement.<sup>84</sup>

The supply of SDA does not meet current demand owing to the shortage of suitable housing stock. For this to be done at scale, and with the appropriate separation of SIL and SDA, there need to be sufficient incentives provided by government to attract institutional investment. While SDA payments under the Scheme are generally adequate, these payments need to be made

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79 DSS, NDIS SDA Pricing and Payments Framework Review, <https://engage.dss.gov.au/sda-review/ndis-specialist-disability-accommodation-pricing-and-payments-framework-review-terms-of-reference/> (accessed 1 June 2018).

80 NDIA, *SDA Provider and Investor Brief*, April 2018, p. 7.

81 Summer Foundation, *Submission 71*, p. 13.

82 Summer Foundation, *Submission 71*, p. 14.

83 Mr Paul Simmons, Director, Ability SDA, *Proof Committee Hansard*, 15 March 2018, pp. 1–2.

84 Scope Australia, *Submission 40*, p. 8.

at a guaranteed rate for twenty years, rather than five as is the current arrangement.<sup>85</sup>

6.95 Summer Foundation, argued that prices should be set for a ten year period:

There's some work around the framework and the rules for specialist disability accommodation and providing a bit more funding certainty. Rather than five-year price reviews, we think prices should be set for a 10-year period.<sup>86</sup>

6.96 Ability Options suggested either grandfathering payments from when a new build is registered or capping the potential maximum price movement allowed at reviews:

In order to stimulate further supply of SDA, we have been advocating throughout 2017 that there must be greater certainty around SDA payments. In particular, SDA payments either need to be “grandfathered” from the date a new build is registered or there needs to be a range set for the maximum price movement possible at a price review. Without one of these approaches there simply is not enough certainty of price continuity for banks or other financiers / investors to make investment decisions which in turn reduces supply.<sup>87</sup>

### ***Committee view***

6.97 The committee has reservations as to whether the current framework truly empowers participants to choose how and where they want to live. As discussed, participants are restricted to choosing from completed and enrolled SDA properties. As a result, their ability to work with investors and SDA providers to find a dwelling that meets their needs and their choice of living arrangements are limited.

6.98 The committee agrees with stakeholders that introducing a mechanism to allow prequalification of SDA-eligible participants would provide greater certainty to developers, investors, and participants. Prequalification would allow participants to approach developers at an earlier point and provide input into support design. The committee is of the view that prequalification could be achieved by making it clear that once a participant's eligibility for SDA support is established; it is ongoing and not subject to annual reviews.

### **Recommendation 28**

**6.99 The committee recommends that when a person is deemed eligible for SDA, this eligibility should be considered ongoing and not subject to change under the participant's annual planning processes.**

6.100 The committee is also supportive of the suggestion that developments should be allowed to be preregistered at plan stage on the proviso they are built to agreed specifications. The committee recommends the NDIA undertake consultation with the

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85 Scope Australia, *Submission 40*, p. 8.

86 Mr Luke Bo'sher, CEO, Summer Foundation, *Proof Committee Hansard*, 4 July 2018, p. 38.

87 Ability Options, *Submission 77*, p. 12.

sector to review the current framework for SDA enrolment and registration with the view of introducing a mechanism for prequalification and preregistration to stimulate construction of new SDA stock and enabling more choices of dwelling types for participants.

**Recommendation 29**

**6.101 The committee recommends the NDIA undertake consultation with the sector to review the current framework for SDA enrolment and registration with the view of introducing a mechanism for preregistration to stimulate construction of new SDA stock and enabling more choices of dwelling types for participants.**

**Hon Kevin Andrews MP**  
**Chair**

**Senator Alex Gallacher**  
**Deputy Chair**

