National Assistive Technology Alliance

A submission to the Joint Standing Committee inquiry regarding general issues around the implementation and performance of the National Disability Insurance Scheme (NDIS) by the National Assistive Technology Alliance

April 2022

About the National Assistive Technology Alliance

The National Assistive Technology Alliance (NATA) is an initiative of the Assistive Technology (AT) sector in Australia. NATA's vision is to ensure a positive future for all AT stakeholders by working collaboratively to influence policy and industry standards and practice for the AT sector. For background on NATA, and a list of NATA members, please see Appendix 1.

NATA and the NDIS

NATA has represented the assistive technology sector on the National Disability Insurance Agency (NDIA) Industry Chief Executive (ICE) Group since 2018. Meeting three times annually, the NDIS ICE complements other NDIA engagement and consultation mechanisms including the Independent Advisory Council, the CEO Forum, the National Mental Health Reference Group, the Carer Reform Working Group and the Participant Reference Group. The IRG full day meetings provide opportunities for dialogue with the NDIA on all matters pertaining to AT and related specialist disability supports.

See https://www.arata.org.au/access-&-funding/towards-a-national-assistive-technology-alliance/

Assistive Technology (AT) and the NDIS

Assistive technology (AT) is an umbrella term for the combination of assistive products and the services needed to ensure safe assessment, distribution and use (AS/ISO, 2018 & World Health Organisation, 2017).

Assistive products can be defined as any product (including devices, equipment, instruments or software), especially produced or generally available, the primary purpose of which is to maintain or improve an individual's functioning and independence, and thereby promote their well-being. Assistive products are also used to prevent impairments and secondary health conditions (AS/ISO, 2018 & World Health Organisation, 2017).

AT is a growing industry in Australia and recent figures indicate that one in ten Australians are using aids and equipment. Once a highly specialised field, AT has become more broadly used in the wider

community. This has led to an expansion not only in the people that use the equipment but those who are recommending and prescribing such equipment. Government spending is now occurring beyond the traditional areas of disability, aged care and community sectors into education, early childhood, workplace/job access, housing and beyond. Specific to the NDIS, the Australian government currently spends over $569M per annum on NDIS-funded AT products and an additional $239M per annum on home modifications (NDIS, 2021).

The five Ps of the AT ecosystem

Internationally, the World Health Organization recognises a range of challenges that exist for people who use AT in their lives, many of which are relevant for NDIS participants and their families (WHO, 2018). WHO identifies the various components that make up an effective AT ecosystem for people who use AT and their families, as part of their Global Cooperation on Assistive Technology (GATE).

Figure 1: WHO GATE 5 P Framework (WHO, 2018).

The World Health Organization AT challenges are summarised below, following which our submission will discuss current issues NATA members are identifying in the NDIS across these five Ps, and potential solutions:

People

Effective AT product and service provision starts with a focuses on the person that use the AT and includes the specific preferences, needs and experience that the person brings to the decision-making and service delivery process (Puli et al., 2021)

Policy

Policy pertains to the policies (local, national, global) that underpin AT product and service processes. Policies often specify particular requirements that determine the way service delivery needs to be implemented. The COVID-19 pandemic has provided some examples of nimble policy

design and implementation. For example, the Australian Government established and approved telehealth service items, as did a number of injury and disability insurers (e.g. NDIS , TAC , iCare).

Internationally, very few countries have a national assistive technology policy or programme, and Australia has undergone monumental disability reform which has enabled funding for AT products and services, linked to an NDIS participant's goals. In contrast, in many other countries, access to assistive technology is poor or non-existent. Even in high-income countries like Australia, outside of the NDIS, assistive products are often rationed or not included within health and welfare schemes, leading to high out-of-pocket payments by users and their families. Many of NATA's members are also involved in the AT for All Campaign, led by COTA, which advocates for a single assistive technology program which will meet the needs of people with disability (such as those over the age of 65) who are excluded from the NDIS (AFTA, 2022).

Products

Products are the tangible items that are used to support the person to engage and participate in the activities they want and need to do. The assistive products industry is currently limited and specialized, primarily serving high-income markets. There is a lack of state funding, nationwide service delivery systems, user-centred research and development, procurement systems, quality and safety standards, and context-appropriate product design.

Provision

Provision refers to the factors that may influence service provision, including any barriers or enablers, and any associated strategies that may be implemented to overcome such challenges to service delivery (Puli et al., 2021). In high-income countries services are often stand-alone and not integrated. People are forced to attend multiple appointments at different locations, which are costly and add to the burden on users as well as caregivers, and on health and welfare budgets.

In many low- and middle-income countries, national service delivery for assistive products does not exist. Those who can afford them buy assistive products direct from a pharmacy, private clinic, or workshop.

People from the poorer sectors of society must rely on erratic donations or charity services, which often focus on delivering large quantities of low-quality or used products. These are often not appropriate for the user or the context, and lack mechanisms for repair and follow up. A similar scenario is also common in emergency response programmes, such as during the COVID-19 pandemic (Mont et al., 2021) .

Personnel

Personnel refers to the professional/s available to assist the person with the implementation of AT. Trained health personnel are essential for the proper prescription, fitting, user training, and follow-up of assistive products. Without these key steps, assistive products are often of no benefit or abandoned, and they may even cause physical harm (as is the case of providing wheelchairs without pressure relief cushions for people with spinal injury).

Place

Place is an additional consideration to the 5P framework that factors in the AT user's environment and the associated factors that may influence the implementation of AT and the service delivery process. Consideration of environmental factors that may pose as either an enabler or barrier to AT selection, trial, supply and use are important and will be discussed further in the NDIS context below.

Acknowledging the work of the NDIS Assistive Technology Team

NATA would like to firstly acknowledge the intention and efforts of the NDIS AT team to connect with the AT sector, including people who use AT. This is noted particularly in the last 6 months as AT NDIS sector engagement around Early Childhood Early Intervention AT approach commenced, and policy changes relating to advisory, assessment, and planning of mid cost assistive technology have been undertaken and now released. The mid cost AT and vehicle modification updates were announced by Minister Reynolds on 4th of March 2022. These important changes aim to reduce the administrative burden and delays experienced in the area of mid cost AT by NDIS participants, whilst also identifying the importance of independent AT advisory and/or assessment services.

Some of the points raised in the following submission have been addressed by these policy changes; however, for people with disability and their families as well as NDIS providers it is noted that these changes have taken a long time to come into effect, and there is a level of systemic fatigue and distress being experienced. Addressing current AT issues - and other systemic NDIS issues that sit outside of the area of AT - in a timely manner will further assist to ameliorate these experiences.

Current issues NATA members are identifying in the NDIS across these five Ps of the AT ecosystem

A range of general and ongoing issues will now be discussed across the 5 Ps of an effective AT ecosystem, with practical examples provided by our member organisations, as well as recommendations that are likely to improve AT services for NDIS participants and other key stakeholders proposed.

Issues for People who use AT

There is often limited NDIS planning allocation for the capacity building budget for the 'soft technology' or human AT services (vs an NDIS budget line item for AT products) that are necessary for good practice AT provision, including holistic and independent AT advice or assessment as outlined in the new mid cost AT operational guidelines.

There is also lost opportunity to capacity build and knowledge share across AT users in the NDIS due to the current lack of data or insights available for the NDIA, with regard to what self-managed NDIS AT funds (e.g. low cost, low risk AT budget items) are spent on, and thus an inability to assess, evaluate or learn from the impact of AT investment on individual outcomes.

Following the updated mid cost AT guidelines release, there is still some clarification required and/or monitoring for NDIS participants who use AT, and those who provide or advise on it.

These points for clarification and/or monitoring include:

- relevant qualifications of AT mentors
- transparency about when AT advice is being sought, and risk management/accountability

- further education of SCs, LACs, and AT suppliers to ensure AT Operational Guidelines are followed. It is acknowledged that there have been some plans made already.

The following case study from a member highlights a practical issue faced by this process:

"The biggest issue for people with hearing loss is the lack of flexibility between core and capacity building – they keep telling us what we need instead of letting us decide for ourselves.
A key example (especially during covid) is having heaps of money in capacity building, when we need live captioning or low cost technology, which is from core funding. Another is having to have a capital budget with $0, but needing items around $1800, yet having heaps in capacity building – especially when the technology is capacity building. Each time we have to go back and beg for more funding in capital – and in some cases it is refused by a planner even though they don't know what they are talking about."

Recommendation in the area of People

- Increase capacity for NDIS participants and their key supporters to be offered flexibility of NDIS plan categories of core, capacity building and capital supports.
- Increase training of NDIS planners and internal delegates to understand the importance of both AT products and services to achieve an effective AT outcome.
- With regards to training, instead of "in house training", expand the collaboration with peak bodies such as NATA to deliver training that is evidence based and transparent to all involved.

Issues with AT products

Current supply pathways are governed by the TGA framework for Class 1 medical devices for the sale of new AT. However, in the second hand market action detailed by the NDIS in both the ECEI AT approach and the Mid Cost AT policy, care needs to be taken to create a Quality and Safety framework for the safe purchase of second-hand Class 1 AT.

For example, a person may want to buy a motorised wheelchair from a site like Ebay. There is usually nothing in the advertisement to state whether the used item meets the standards required by the TGA for a motorised wheelchair or whether it has been through a quality and safety check by an expert to confirm:

• There is no sign of metal fatigue and welds are in good condition on the frame. Weld tests include simple sensory examinations (non-destructive visual examination), liquid penetrant, radiography, magnetic particle, eddy current, and ultrasonic testing.

• Whether the vinyl has been hygienically cleaned by an expert or replaced to prevent risk of infection from old vinyl due to possible fecal incontinence or bladder leaks by previous user/s

• The battery has been tested or replaced – user could be stranded if battery goes flat.

• Electrics are safe.

• Age of the chair – if this is beyond the manufacturer's warranty or support, then the item may need to be recycled rather than re-sold.

• This wheelchair may/may not be appropriate for the buyer and they should consult a clinical prescriber.

We note the ECATA Trial will manage these risks through the EOI for AT suppliers.

Recommendations in the area of AT products

NATA's member organisation ATSA has made the following recommendations in the safeguarding of participants buying second-hand Class 1 AT::

- Recommendation 1: ATSA recommends all sellers of second-hand Class 1 AT be required to post a Health Warning stating:

  1) The Class 1 AT equipment should be checked by a supplier/certified repairer of AT to ensure it still meets the Essential Principles, the intended purpose and design as submitted by the sponsor to the TGA.

  2) Clinical advice should be sought to ensure the medical device will safely meet their needs.

- Recommendation 2: Digital platforms to be accountable for informing sellers of the required Health Warning and to direct the seller to the original supplier of the Class 1 device for guidance where the seller is an individual and not a business. The ACCC and TGA will need to work together to build appropriate protections for the consumer.

- Recommendation 3: A recognised training program be developed for the repair and maintenance of AT and information provided to the consumer advising that the piece of AT has undergone a quality and safety check by an accredited person.

- Recommendation 4: The Consumer Policy Unit in Treasury to work with the TGA to include Class 1 AT in the pilot on product labelling scheme that provides repairability and/or durability information for consumers.

Issues with AT personnel

When the AT mid cost policy was released, it was noted that AT mentors would be able to prescribe AT up to $15,000, the same as allied health professionals, continence nurses and rehabilitation engineers. When clarified with the Agency, it was confirmed that AT mentors did not have a line item for charging, and were not yet registered with the Commission to provide this service, and therefore would only be able to work under the supervision of a registered provider.
An AT mentor can be described as a person with lived experience of disability and using assistive technology, giving them unique expertise in this area. Currently, there are few structured courses in Australia that are available, (see here and here for the current training models).

Although this is a positive step forward in recognising the expertise of people with lived experience and creating opportunities for working in multidisciplinary teams, releasing these policies without details, processes and consultation with the sector creates risks and unnecessary work for peak bodies like NATA to clarify next steps.

Recommendations in the area of AT personnel

- The Agency provide a clear process for training and use of AT mentors in prescribing low and mid cost AT

- The Agency consult with AT mentors and peak bodies to ensure that appropriate safeguards are in place to mitigate risks associated with AT mentors and a non-defined scope of practice

Issues with AT provision

Credentialing and other quality assurance checks will become more important over the course of the next twelve months as the regulatory bodies of a number of sectors such as aged care, health, NDIS and veteran affairs align under one framework, known as Aligning Regulation across Care and Support Sectors, and providers will be expected to demonstrate that they can provide the same quality service to participants in each sector.

Allied health services typically delivered in the past by a small sector of not for profit disability organisations have now seen a shift to an increased demand on private practices to provide these more complex services. This often includes providers at the start of their career, who are expected to meet key performance indicators under a privatised business model, often for practice owners to break even. At present the NDIS does not fund supervision or training of staff, therefore dis-incentivising some practices to provide it, and leaving limited avenues for the disability workforce to be upskilled and receive appropriate supports in these areas of advanced practice. As previously noted, there is now added pressure on peak bodies to ensure providers are trained to a standard that prevents litigation.

When participants are able to get AT funded in their plans, there is then a lack of understanding that AT is a complex area of practice that needs time to be appropriately set up for a participant. One member recently had to support a participant to go to the AAT for a request of 20 hours for the year to help him set up his communication book, at the age of 20. This also included time training communication partners on how to use this new system in the community. Although the participant was able to get his request funded, there was a stipulation that the sessions would be time limited, standard assessments would be conducted to prove progress was being made, and evidence could be provided of home programs being provided and completed.

Recommendations in the area of AT provision

- The Agency ensures that there is adequate capacity building funds in plans so that participants can trial, purchase and learn to use their AT competently
- The Agency, the Commission and peak bodies such as NATA collaborate on funded training programs to ensure that providers are providing best practice services to participants
- As regulatory alignment occurs across the Aged Care, disability and health sectors, peak bodies such as NATA are consulted to ensure people with disability have timely and appropriate access to appropriate AT

Issues with NDIS-specific AT policy

- Application/planning process

Members have reported various experiences using a central AT Enquiries email address. There have been reports of a constant need to follow up applications in order for them to be processed, which puts more administrative burden on the participant or provider. Others have reported that this task

falls to the LAC. A clear consistent process will aid both transparency and also action for participant and AT advisors

The following case study highlights the amount of time clinicians are investing in processes for families, often for free, because of inconsistencies with planning decisions and reviews..

“I have recently submitted AT applications for another 3 participants. For one, I have written the AT application in full prior to their initial planning meeting in an attempt to stop a repeat of my previous experiences. This was done probono because the family could not afford to pay for the time and they are not yet on a plan. I decided to try this as the child will be at school next year and can not afford to wait yet another year for AT if they don’t include it in the budget now. For another, I recommended AT prior to the last plan review in January and an approximate cost was included in the recommendations (pending finalisation of device trial) and while $600 was provided for trial of a communication device there was no evidence of a budget for purchase. The third child, a school age student, had AT recommended by their managing speech pathologist prior to their last plan review. And again, while $600 was included for trial, there is no budget for purchase.”

- Australian Consumer Law and the impact of slow AT decisions by the NDIA

In 2021, the ACCC, NDIA and NDIS Quality and Safeguards Commission released a joint statement on Australian Consumer Law and the NDIS Code of Conduct (Australian Competition and Consumer Commission, 2021) . This letter highlighted some specific issues relevant to professional liability in the area of AT advice, prescription and supply as follows:

“The consumer law requires that, when supplying goods or services in Australia, businesses must:

- not mislead or deceive consumers, this includes giving false information or not enough information
- not accept payment for goods or services if you are unsure of your ability to supply them.

The consumer law also requires that businesses provide goods or services that are of acceptable quality, fit for their purpose and match the description or sample provided to the consumer, these are called the consumer guarantees. When the consumer guarantees are not met consumers are entitled to a repair, replacement or refund, depending on the severity of the failure”.

The NDIA have noted that if consumer law is breached in relation to advice or prescription of AT, pursuit of replacement or refund of AT costs via the AT advisor's professional indemnity insurance may be made. This has been largely via personal communication when asked by member organisations, and the responsibility is on providers to seek information about this.

There are some growing examples of this occurring in practice. It has also been noted through individual member exploration that professional indemnity insurance may not always be fit for this purpose, which can in turn mean personal financial responsibility for an AT advisor.

This has brought supervision, credentialing, and the lack of clinicians experienced in the disability sector into the spotlight-as well as role of the consumer choice and rights. It has made many providers nervous, and some providers have expressed the desire to leave the sector if there is a threat of liability for clinical decisions made.

Registered providers who prescribe assistive technology undertake the same verification pathway as those who deliver therapeutic supports. Therefore, it has not been indicated by the Commission that

this is an area of high risk, similar to categories of support required to go through a more comprehensive level of registration, such as early childhood supports or positive behaviour support.

The following case study highlights this situation:

"I have a client who is a lovely young man with SMA and I recently applied for a new commode for him. His prior therapist had prescribed a commode to replace his old one, but it did not work out – the measurements of the seat were the same but functionally the commode was quite a different seat depth because of the architecture of the backrest frame. Where he sits puts the seat aperture, armrests, footrests etc in the wrong place. Due to late stage SMA and his need to "stack up" in exactly the right posture to maintain stability, but due to the structure of the commode we just cannot modify it to make it work, it's a do-over.

I believe the prior prescription was a decision made after a decent thought process but for various reasons did not quite work out, mostly due to the very small range of tolerance of this client to postural variations and perhaps a little inexperience in realising how particular you need to be in such cases to get all the set-up right, as function is so precarious. It is a poor outcome no doubt but there are no right answers, and I note that this is a very tricky client with significant loss of motor function due to SMA plus a big rotational scoliosis and lots of compensatory postures that allow function.

Horror and speechlessness today when the client advised that the NDIA is paying only for the difference between what the old (unsuccessful) shower commode cost and what the new one costs. They want him to go back to the prior professional who prescribed the previous commode and ask them to use their indemnity insurance to pay the participant back the full cost of the commode. Participant of course does not think that will be an easy conversation to have and is quite apprehensive, and I do not know why it is up to this participant (who is plan managed and has a SC) is being expected to do this?? He was told by an NDIA representative that this is a new NDIS policy. Surely this is not the case?"

- New Assistive Technology Approach for Early Childhood Early Intervention

On May 31 2021, the NDIS put out a request for information (RFI) in order to design an Early Childhood Assistive Technology Approach (ECATA) for NDIS participants. This request closed in July, and submissions could only be made through the Australian Government online tender system.

In this RFI, the new approach proposed solutions to the stated goals of facilitating multiple supply options, giving participants more choice for AT and providing value for money. The solutions included such strategies as an equipment loan pool, subscription, trialling equipment prior to buying it, and various ways to purchase AT.

NATA responded to this request, and made the following comments of note:

1. The timeframe for response to, and restricted nature of, the AusTenders RFI made genuine consultation difficult.
2. The level of consultation with families of children who are AT users – the RFI has limited detail but does note a consultation with 'over 30 families nationally' (page 8 of RFI), which is 0.2% of the 13,652 Early Childhood NDIS participants having AT (page 23 of RFI) and thus not adequately representative of the early childhood group.
3. The current draft approach does not adequately represent all children who are NDIS participants or the assistive product bundles (it was heavily weighted to seating and

mobility and self-care products – more work is required by the Agency to ensure this approach is representative of the broad scope of AT needs of early childhood Scheme participants).

4. A roadmap needs to address the systemic AT issues which exist internally within the NDIA and have been documented by the Joint Standing Committee inquiry into assistive technology – these are noted throughout the RFI (e.g. see diagram on page 8) but without strategic work on these internal Agency issues, any new approach has a high risk of failure.
5. The Agency was encouraged to ensure that the final Early Childhood AT approach draws on the evidenced recommendations of the 2018 Senate Inquiry into Assistive Technology – specifically, "The Senate committee strenuously suggests that the NDIA does not re-invent the wheel yet again by attempting to design a model with all the features of the models in place before the Scheme rolled out, but with much worse outcomes for all stakeholders, including tax payers".

In December 2021, the NDIS released the results of the RFI to those who had responded. The first steps in the trial will be an AT loan pool, which will include an online marketplace similar to eBay. which will be a tender process for those suppliers who responded to the RFI, and limited to registered providers only. The second step will include a model for telehealth, which aims to connect those in rural and remote areas to AT. To date, there has been no further communication about the process outside potential suppliers, particularly alongside the mid-cost AT changes, and whether this is applicable for Early Childhood Early Intervention.

Key concerns in regard to this trial are the lack of clarity around the decision criteria for the selection of new or second hand AT for children, the pricing for the second hand AT and safety frameworks of the resold/reissued equipment. The question of approvals for access to AT under this model of supply is also yet to be made clear, as well as what triggers will be in place for a child to be reassessed for their AT. The NDIS advised an online marketplace similar to Gumtree was viewed as a positive model to simplify the process of recycling and sourcing suitable AT.

Recommendations in the area of NDIS-specific AT policy

- Consult with NDIS participants who use AT, as well as peak bodies (e.g. NATA and its members) who have expertise and member-based practice knowledge in AT before introducing policies involving AT in order to facilitate comprehensive engagement and uptake across the sector.
- Consider the NDIA undertaking supply-side investment to further develop the current and future workforce in order to attract and retain skilled AT professionals. This may include strategic funding for mentoring/supervision programs, and targeted allied health professional student placements for organisations and private practices, without this funding being taken from a participant's plan or subsidisation by the provider.
- Further consultation around the responsibility of the providers, suppliers, consumer and consumer groups and NDIS, NDIS Commission, peak bodies and insurance brokers needs to occur when prescribing equipment so that all parties can understand and acknowledge legal responsibilities, and advocate for regulatory change and support where appropriate. Without this, there is a risk that providers and/or suppliers will choose to stop providing services due to a perceived threat of out of pocket expenses.

- Training for health professionals and Service Providers from peak bodies and the NDIS to know what is required when consumers needs change which may result in their AT solutions

changing and how to address this through the Reasonable and Necessary criteria when making an application for a replacement.

- NDIS to review the process with a view that consumer needs change-which may be a positive change due to good quality supports that were put in place to build capacity in a consumer and their support network.

Thank you for the opportunity to share this information. If you have any further queries, please contact the Independent Chair, Dr Natasha Layton at international@arata.org.au

This submission has been endorsed by the following NATA member organisations:

Allied Health Professions Australia

arata
participation through technology

atsa assistive technology suppliers australia

R&IA RIGHTS & INCLUSION AUSTRALIA

TAD/AUSTRALIA

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Appendix One: Background on, and Members of, NATA

NATA was initiated in April 2017 by several Independent Living Centres and ARATA (Australian Rehabilitation and Assistive Technology Association), collaborating and connecting with the AT sector in response to rapid policy change. NATA is now a community of practice of over 25 peak national stakeholders. This broad-based Alliance welcomes nationally-focussed organisations concerned with assistive technology use, innovation, manufacture, supply, provision, service delivery, research, education or oversight.

NATA Participants fall into five broad stakeholder groups

- AT Consumers
- AT Practitioners
- AT Services
- AT Suppliers
- AT researchers/ educators.

See figure 1.

Figure 1: NATA stakeholder groups

NATA is an unincorporated entity with an organising committee comprising a nominee from each of these stakeholder groups (Blind Citizens Australia, Allied Health Professions Australia, Lifetec, ARATA, and ATSA) and an Independent Chair (currently Dr Natasha Layton, from ARATA).

Quarterly teleconferences and an annual face to face meeting, in addition to peer mentoring and resource sharing has generated substantial shared knowledge and information that is connecting stakeholders on matters of mutual concern and pooled sector knowledge to contribute to research and policy initiatives. As a centralised point for knowledge sharing and a portal for communication across the diverse sector, NATA's activities are prioritised by participants.

NATA Participants currently include:

- Australian Rehabilitation and Assistive Technology Association (ARATA)
- Ability First Australia
- AGOSCI (was Australian Group on Severe Communication Impairment)
- Allied Health Professionals Australia (AHPA)
- Assistive Technology Suppliers Australia (ATSA)
- Australian Association of Gerontology
- Australian Federation of Disability Organisations (AFDO)
- Australian Orthotic and Prosthetic Association (AOPA)
- Australian Physiotherapy Association (APA)
- Blind Citizens Australia
- Consumer Action
- Council on the Ageing (COTA)
- Dietitians Association of Australia (DAA)
- Home Modifications Australia (MODA)
- ILC Tasmania
- Independent Living Assessment (ILA)
- Indigo
- LifeTec Australia
- National Committee on Rehabilitation Engineering (NCRE)
- National Disability Services
- Occupational Therapy Australia
- Orthoptics Australia
- Rights & Inclusion Australia
- Speech Pathology Australia (SPA)
- TAD Australia (Technical Aid to the Disabled)