



**RESPONSE TO JOINT STANDING COMMITTEE ON THE
NATIONAL DISABILITY INSURANCE SCHEME (NDIS) –
MARKET READINESS (COMMITTEE)**

Submitted by:
Andrew Daly,
Chief Executive Officer
DARE Disability Support
57 Lawson Road, Springwood, NSW, 2777

TABLE OF CONTENTS

TABLE OF CONTENTS	2
1. Introduction.....	3
2. Executive Summary	3
3. Recommendations	4
4. Current Market.....	5
5. Terms of Reference	6
a. The transition to a market based system for service providers;.....	6
b. Participant readiness to navigate new markets;.....	7
c. The development of the disability workforce to support the emerging market;.....	7
d. The impact of pricing on the development of the market;.....	8
e. The role of the NDIA as a market steward;	9
f. Market intervention options to address thin, markets, including in remote Indigenous communities;	10
g. The provision of housing options for people with disability, with particular reference to the impact of Specialist Disability Accommodation (SDA) supports on the disability housing market;.....	10
h. The impact of the Quality and Safeguarding Framework on the development of the market;.....	12
i. Provider of last resort arrangements, including for crisis accommodation;	12
j. Any other related matters	13
Attachment A – Productivity Commission Submission	16



1. Introduction

DARE Disability Support (DARE) has been providing disability services to people with profound intellectual disabilities for over 50 years in the Blue Mountains and surrounding communities of New South Wales (NSW).

People supported include those with profound intellectual disability, Autism, Down Syndrome together with a range of comorbidities including being non-verbal, physical, psychiatric and behavioural manifesting in aggression, violence and self-harm. Many of the people supported by DARE do not have family or other supports.

Services include supported independent living, community, centre based activities and an Australian Disability Enterprise.

DARE commenced the transition to the National Disability Insurance Scheme (NDIS) as part of the first NSW region in 2016.

The Committee I believe is well aware of the many systemic issues that have compromised the successful creation of the NDIS and in some instances compromised the welfare of participants, through the direct representations of many people, including myself and numerous submissions, including those to the Productivity Commission in 2017. Rather than repeat many of the issues raised in DARE's 2017 response, to the Productivity Commission, I have attached a copy of DARE's submission and ask that this be considered as part of the Committee's deliberations.

As you will observe and it is disappointing to note, since 2017 response many of the issues raised have not been addressed.

2. Executive Summary

The DARE Board and staff have been strong supporters of the NDIS or more particularly the goal of improving the quality of life for people with disabilities and have worked tirelessly and committed substantial resources to support a successful implementation. Indeed as a result of the second plan debacle DARE is subsidising the NDIS through the non-payment of over \$395,000 in outstanding invoices, with at the current time no indication of a likely payment time frame.

Subject to appropriate safeguards including safety nets and the creation of a crisis management system, DARE believes a market based approach rather than the current NDIS dominated market place, which has clearly been compromised in any event by poor systems and implementation to be preferable to what is currently occurring.

The problems being experienced by providers and participants are exacerbated by no functioning complaints system within NDIS. DARE was advised recently by a senior NDIS staff member that the internal complaints system is overwhelmed with little point in a complaint being made due to a lack of staff. What DARE would argue that this break down in NDIS complaints system is not a result of a lack of staff but rather a broken system, it still reflects a broken system.



Unfortunately the new Quality and Safeguarding Commission do not have jurisdiction over NDIS complaints, where it may be best served in focussing its resources but rather appears to be another bureaucracy adding cost and inefficiency, directed at registered (not non-registered) providers.

Indeed the ongoing problems within NDIS have resulted in software developers not investing in making their offerings NDIS compliant due to the ongoing certainty of the need for change, adding further overheads and inefficiencies for providers.

DARE's experience to date is that demand for services currently outweighs supply, with supply being restricted by the poor fees, inefficient and broken systems hence denying access to services and preventing growth.

A market based approach through competition will encourage innovation and the development of services to meet demand subject to the NDIS planning process being substantially improved and incorporating sufficient flexibility. This is in preference to the rigid approach currently in place preventing NDIS responding to a change of circumstances or crisis in a timely manner. Indeed whilst not confusing "strategy with lethargy" this rigidity and inability to approve changes and new participants into for instance Supported Independent Living services has the hall marks of some form of rationing of services.

Unfortunately DARE believes it is not the readiness of the participants or providers preventing a true market developing but rather the systemic shortfalls including NDIS information systems both portal and contact centre, poor planning process resulting in endless reviews, poor decision making by senior management, level of knowledge and understanding of both planners and Local Area Coordinators (LACs) of disability that are the obstacles to this occurring.

These problems are compounded by an inability to change or evolve, dealing with individual crisis rather than systemic change, resulting in no continuous improvement. An example being that any mistake in a participant's plan no matter how minor requires a full plan review and cannot be amended with a simple edit. This specific problem has been discussed for the last 20 months that I am aware of, I am advised change has unsuccessfully been sought by NDIS staff during this time. In the absence of implementation of this fix results in the unnecessary burdening an already overwhelmed review system.

DARE would however like to formally acknowledge the hard work of individual NDIS staff that have worked to resolve individual problems, in the main unsuccessfully

3. Recommendations

DARE believes that the Committee should recommend the trialling of a market based approach for the provision of disability services by registered providers subject to consideration of the following:

- Artificial rationing of services through the creation of unnecessary process unilateral cuts to plans and untested tools ceased,



- Ongoing systemic problems with systems, including portal, editing of and second year plans together with non-payment of invoices be resolved as a matter of urgency and not be permitted to reoccur,
- NDIS complaints system to be made functional, operate in accordance with their client charter or it be outsourced to the Quality and Safeguarding Commission, further that this be extended and include complaints from providers, with a process for escalation,
- “Market” and NDIS responsibilities be defined and strategies created for gaps, including provider of last resort and crisis management,
- Planning process be reviewed to measure consistency and be created with sufficient flexibility and funding to enable a participant to participate and have choice in an open market place,
- Alternative funding mechanisms be explored that may reduce cost, frustration and provide greater value,
- Cuts to Coordination of Supports be reversed and this service be made available on request, LAC contracts to be reduced in line with this,
- Current administrative burden created by NDIS inefficiencies be reviewed and future systems streamlined or providers compensated for their additional cost,
- SIL entry and change of circumstance systems be corrected and the artificial rationing in place be removed enabling participants to achieve the choice in accommodation, and
- SIL template be disregarded unless supports are greater than the benchmarked price.

4. Current Market

The Current market is dominated by the National Disability Insurance Agency (NDIA), with few checks and balances in place to independently monitor, benchmark and measure the performance of the NDIS.

Currently the NDIA unilaterally decide:

- who can enter the market, this will be shortly the responsibility of the Quality and Safeguarding Commission,
- how the market will operate, including the quantum of supports for participants,
- the types of services that will be included in the participant’s plan, as has been acknowledged there was an initial refusal, by some planners and LACs to discuss or include employment in plans, particularly for Australia Disability Enterprises (ADEs),
- the review process,
- the levels of fees to be provided, irrespective of the actual cost of provision, this is reflected in the small number of providers that have entered and operating in the current disability market place, indeed a number of larger providers have left the sector as a result,
- complaints management both internal and against providers, this is failing and as DARE was advised recently despite an existing charter for dealing with complaints, these are not dealt with in either a timely, fair or efficient manner, and
- Who exits the market through deregistration, DARE for instance was threatened with deregistration, without any discussion nor investigation for introducing a Participant related activity time charge, whilst eventually receiving an apology; this created a financial loss and demonstrates an inappropriate market dominance.



Based on DARE and many other providers' experience NDIS has failed in many of the above roles, a number of instances which are detailed below and in DARE's submission to the Productivity Commission.

The most recent debacle with regard to second year plans demonstrates again the inappropriateness of NDIS market dominance and the vulnerability of providers due to this market dominance. Whilst clearly foreseeable, NDIS made little preparation for plan reviews required as a result of the expiry of first year plans.

As a result large funding gaps between plans were created, coupled with further portal failures, in DARE's case this has included a requirement to use its reserves to fund plans for over three months, whilst these mistakes in many instances are still being resolved. DARE currently has amounts owing dating back to November, 2017 with no process to escalate the matter.

Accordingly for any transition to an efficient and effective market to be successful is reliant on the correction of these systemic NDIS issues, not providers.

5. Terms of Reference

The following responses are listed in accordance with the Terms of Reference.

a. The transition to a market based system for service providers;

Many of the systemic failings of NDIS have resulted in providers being forced to absorb significant additional costs and create systems, normally at short notice to overcome these problems, hence creating a capacity to introduce change at short notice. For instance as a result of the second plan debacle above, DARE has been manually invoicing for 20 participants, commencing November, 2017 and continuing.

Of the providers that chose to operate, a number have subsequently ceased as a result of the heavy administrative burden and poor fee base. Those remaining have created robust systems, are familiar with their costs of operations by service type and have adapted to a continually changing environment.

Given DARE already provides quotes and invoices based on the imposed fee guide, certainly from DARE's perspective, subject to participant's plans reflecting the true cost of service delivery the transition will be relatively seamless. A move to a competitive market place should not be viewed by the NDIA as an excuse to ration or reduce plans but rather market forces drive choice, innovation and growth of services.

As I have stated previously and based on numerous public comments by senior NDIA staff their belief is that competition is solely a tool to reduce the costs of services, a very short sighted and cynical view that given the impact of the artificially low fee base has already had on service growth demonstrates the fact that the NDIA should not be determining the future market.



b. Participant readiness to navigate new markets;

The NDIS does not cater or understand the needs of people with profound intellectual disability, the majority of DARE participants, together with a range of other groups, which have been well publicised, including people with mental health issues or of Cultural and Linguistically Diverse backgrounds or Aboriginal and Torres Strait Islanders. This is exacerbated further by poorly trained LACs, reliance on an algorithm rather than a proper assessment process, that based on the level of complaints and reviews clearly provides inconsistent outcomes and a reluctance to seek advice.

Whilst suggested on numerous occasions by DARE that plans, activation, usage rates and the impact of Coordination of Supports be benchmarked, advice from NDIS is that their systems are not capable of undertaking this analysis. In any other market place organisations benchmark their products, productivity ratios etc. in order to measure efficiency, Market reach and need for resources in the NDIS instance benchmarks would enable at the very least a measure of consistency, something to date that has been lacking.

The inability to activate NDIS plans by participants, not receiving funding for Coordination of Supports or by LACs not undertaking this responsibility, has left many participants without the support necessary to understand and receive services via a complex NDIS system.

Given the direction to cut second year plans and Coordination of Support services, as a number of participants have been advised by LACs, allegedly at the direction of the NDIA (NDIA advise that this is not true and LACs are initiating these cuts), either way this will clearly not only create further problems and frustrations for participants in the future, but also restrict their ability to exercise choice and control.

In addition it is clear that there will be a very large group of people with a disability, that are not deemed eligible for NDIS however will require some support in the absence of which they will likely spiral into crisis and hence become eligible, creating further problems in a stressed market place.

The current NDIS entry process is bureaucratic, inconsistent and onerous in the need to collect supporting information, in many instances multiple times.

Based on DARE's discussions with existing participants, many have remained as Agency managed, some have elected plan or self-management and thrived, others have regretted the decision to move from Agency managed.

Given the NDIS is about choice and control as long as the Agency option remains people with disabilities, effectively have a choice as to how their plans are managed and implemented, subject to sufficient support through a Coordination of Support service being available. Indeed a genuine market will enable them to access the type and level of supports in a manner that suits them rather than the restricted approach created by the current imposed fee guide.

c. The development of the disability workforce to support the emerging market;



Work force development as with services can only occur if there are sufficient funds to support it, at the current time the NDIS is being built to a price not a standard.

In the absence of appropriate fees there will be greater casualisation of the work force, high turnover, less quality through a lack of training and oversight, all placing participants and the NDIS at risk.

This will also lead to people not entering the disability industry at a time when the success of the NDIS is reliant on a substantial increase in the work force.

The low fee base currently available does empower some people with disabilities to employ family and friends through intermediary's at a lower cost to a provider who will clearly have greater overheads however this clearly increases the risk, makes no provision for third party verification, ongoing training or screening. Indeed it is my understanding that the new Quality and Safeguarding Commission will only have extremely limited powers over the conduct and performance of a non-registered provider.

A market based approach will enable providers to recover the costs of staff development rather than the opposite which occurs as a result of the current imposed fee. It reflects in a true market place that the end user is able to have choice and make a decision with regard to the quality and risk of their support services.

d. The impact of pricing on the development of the market;

As has been demonstrated through the departure of a number of large providers directly as a result of the imposed fee guide, clearly the fees and ability to recover costs and develop new services is directly linked to the fees payable.

It is my understanding and this was confirmed with me previously by the former NDIA Chief Executive Officer, Mr. David Bowen that there is already a general acknowledgement that the current \$22 billion budget is well short of the required amount being \$30 billion, for 450,000 participants since that time the estimated number of eligible participants has risen and continues to rise further.

Mr Bowen also informed me during the pilot stage that he believed that only 30% of participants would require Individual Support Plans (ISP), the remainder would access services through alternative funding arrangement including partial block funding. This has clearly not occurred with all participants currently receiving ISPs and little or no provision for alternative methods of funding or purchasing of services.

Based on DARE's experience to date group activities for instance do not always fit neatly into an hour of service, whilst not researched I am sure there are a range of other services and disability groups that may be better and more efficiently served through alternative or grouped funding or bulk purchasing arrangements. This focus on an hourly rate also appears to confuse the concept of cost with value.

I am similarly informed by senior NDIS staff that artificial caps on the number of staff is creating many of the issues noted throughout this submission, clearly NDIS need to have access to sufficient staff to operate efficiently in the market place.



The current level of the hourly fee is which in DARE's view too low to be sustainable, whilst delivering quality services using trained staff is confirmed by the lack of "for profit" organisations that have entered or are operating in the current market place.

Given the likely budget issues as a result of underfunding and incorrect estimates of demand and inability to lower fees without reducing substantially the availability of resources that consideration be given to alternative funding or purchasing arrangements that may generate savings and reduce the current administrative burden.

e. The role of the NDIA as a market steward;

Prior to commenting on the role of the NDIA as a market steward I would appreciate advice from the Committee as to what they believe the role of a separate government instrumentality, namely NDIA as a market steward in a Human Services environment is. Certainly in my direct experience in dealing with NDIA staff, I have been informed that the only role of the NDIA is to:

- Create NDIS plans, and
- Fund NDIS plans.

The following was identified in the Parliament of Australia library:

'Stewardship': buzzword, inkblot, or a new way to deliver human services? Posted 23/09/2016 by Philip Hamilton

"In relation to the NDIS, the Minister for Social Services and the National Disability Insurance Agency (NDIA), have both indicated that they have stewardship roles. The Minister's usage of stewardship appears to have been more colloquial in nature. The NDIA's vision is that markets will be 'largely de-regulated'—market intervention is contemplated, but 'models and methodology for this are works in progress' and interventions would be 'increasingly by exception only'. This suggests that regulation is not necessarily envisaged as a big part of NDIS stewardship."

Based on the performance of the NDIS to date, it would seem difficult to justify any role in market stewardship due to the ongoing systemic difficulties it has been unable to overcome with information systems, planning and staff shortages making it impractical to undertake a further role.

I have previously identified a lack of a functioning complaints system to support this statement regarding systems and staffing as a reason not to expand the role as currently perceived by NDIA staff.

Secondly as Mr. Bowen advised the NDIA is in the invidious position of needing to ration supports and restrict growth in order to meet budgetary constraints, creating a conflict of interest, if the role of a market steward is to intervene (fund) thin markets, areas of market failure or be a provider of last resort.



As I understand it, the current proposition is that much of a stewardship role for the disability sector will be under taken by the Quality and Safeguarding Commission.

Clearly if NDIA is to have any role as a market steward it needs to be defined and aligned to the roles of both external governance processes and other bodies including the Quality and Safeguarding Commission.

I am not sure if the lack of any vacancy management system falls within the role of stewardship however this issue does demonstrate the problems with NDIS market dominance and their rigid approach to both funding of supports and their role in the disability sector. Both the New South Wales Government and NDIA staff have acknowledged the inefficiencies and reduction in a participant's choice and control, a lack of a genuine, impartial vacancy management system presents.

A simple example is the provision of Supported Independent Living support (if the NDIA hurdles can be overcome), there is no central register of vacancies that can be searched in order to match a participant's SIL aspirations with available vacancies. As a result Coordinators of Support, LACs, participants and families have to repeatedly contact providers to identify a vacancy, leading to not necessarily an optimum match but also wasting substantial amounts of time and resources.

DARE has raised this matter repeatedly with the NDIA, only to be advised that it was for the "market" to resolve. Is this part of market stewardship or leadership? Why would a market already struggling with an imposed low fee base, non-payment for services invest in improving the overall market place?

f. Market intervention options to address thin, markets, including in remote Indigenous communities;

DARE is unable to make a comment specifically with regard to remote indigenous communities.

With regard to thin markets either a different funding regime to that included in the fee guide is required, which may include partial or full block or grouped funding, to guarantee the coverage of fixed costs or in accordance with the principles of supply and demand the fees payable need to float to a level that will attract providers.

A larger issue is what is actually included as the NDIS market? As will be noted later in this submission there are already issues that DARE has encountered with regard to the interface with health. What is the expectation with regard to crisis management or stewardship, certainly my understanding of the NDIS Act and Rules, whilst acknowledging the existence of bi lateral agreements with State Governments, does not specifically identify NDIS's responsibilities with regard to these issues.

g. The provision of housing options for people with disability, with particular reference to the impact of Specialist Disability Accommodation (SDA) supports on the disability housing market;

Whilst initially being a simple and easy process, albeit partly compromised by poor plans, planners and LACs who had little knowledge of disability.



The second year plan debacle has resulted in DARE currently funding from its reserves 20 residents who have expired plans, the gap between previous and new plans or second year plans with no SIL budget. As noted above NDIA currently owe DARE over \$395,000 in unpaid invoices.

With regard to the SDA payment, DARE's experiences have been poor having received it for some residents and not others in each of the registered legacy houses, despite numerous and ongoing requests, the remaining funds are still outstanding, DARE has been informed it is a system fault. In addition a further two new DARE residences were added, for which confirmations of these registrations were received which DARE was required to resubmit on three separate occasions due to these applications "being lost in the system".

Of greatest concern is DARE has two vacant residences, despite having a large wait list. In one instance DARE had identified three men who wished to share a house and commenced discussion with NDIS in August, 2017, each had SIL included in their NDIS plans. Once included in a plan a participant is required to identify a vacancy, as a result DARE purchased a new house to accommodate these gentleman.

Since the purchase DARE has been advised that unless there is a crisis no new participant will access an SIL budget, nor will an existing participant be able to alter their existing SIL budget.

The current protocol as relayed to me is that NDIA require:

- SIL template, prepared by the provider is used to determine the benchmark rate to be applied, this is calculated based on hours of support provided in a week and used to assess the support costs, feedback from a number of providers is that NDIA ignore this and unilaterally calculate a lower cost, in recent times NDIS has used the SIL template in unilaterally and incorrectly lower other core supports funding in addition NDIS staff advise that they do not understand the SIL tool,
- SDA Assessment, there is currently no template or explanation as to what is required, although DARE has requested guidance, I have been advised that there is no one trained to assess the participant's entitlement to SDA in any event, DARE has offered to forego the SDA payment in order to enable the three gentleman to move into this new house however this was denied by NDIA as every new participant requires an SDA assessment whether eligible or not, and
- I have been verbally advised that there is a further step, whereby NDIA seek cheaper options to SIL, so if a middle aged person with a disability is seeking to move out from ageing parents, are they able to remain in their current accommodation with some in home support.

Clearly the above shambles together with the non-payment of invoices for support costs will not be encouraging future investment in disability housing, indeed DARE will seriously look at in the future selling the property purchased above due to the ongoing holding costs associated with maintaining whilst waiting on NDIS processing.



h. The impact of the Quality and Safeguarding Framework on the development of the market;

Whilst clearly in its early evolution the concept of ensuring the welfare, choice and independence of people with a disability, is supported by I assume all providers.

Unfortunately the creation of the Quality and Safeguarding Commission appears to be rushed and based on the few presentations I have attended appears to be primarily a tool to bludgeon registered providers through the creation of some form of yet to be thought out audit process.

Whilst providers rightfully will bear the cost of audit, I would hope that there is some form of checks and balances created to prevent targeting of vocal providers and a requirement for wasteful and meaningless audits, developed by bureaucrats unfamiliar with people with disabilities or the individual provider.

Of greater concern given the lack of a functional NDIS internal complaints system is that to the best of my knowledge the largest number of complaints relate to the NDIA and yet the Commission's resources are being solely directed at investigating and auditing registered providers only.

DARE believes that even if introduced as an interim measure until a genuine complaints system within NDIA is functioning that these resources would be far better directed at supplementing the NDIS complaints system and including greater accountability for unregistered providers.

i. Provider of last resort arrangements, including for crisis accommodation;

With the withdrawal of ADHC services in NSW, there is no longer any provider of last resort or crisis management system, as noted above, when support from NDIS has been sought in the past, the standard response is that their responsibilities relate only to preparing and funding plans.

Whilst DARE can provide numerous examples of where the NDIS has failed people in crisis I have documented a current example for which at the time of preparing this response is still to be resolved.

A DARE resident assaulted on two separate occasions, within a month, two different resident's in SIL, as a result he was separated and alternative short term accommodation was found. He requires 1:1 support, 24 hours a day.

In addition to the statutory requirements, NDIS was immediately informed and a change of circumstance form lodged.

Advice from NDIS was to draw down of the participant's plan for the additional support; there are no remaining funds for the creation of a behavioural management plan. Almost three months later and despite numerous verbal and three written requests for a plan review or advice as to how the NDIS wish DARE to proceed and with little funds remaining in the participant's plan; no direction or advice has been received.

Clearly if NDIS aren't able or prepared to intervene in these circumstances then another alternative is required. If part of NDIS's market responsibility is to act as a provider of last resort or take



responsibility for crisis management then appropriate systems, processes and resources need to be allocated for these functions and staff advised accordingly.

j. Any other related matters

- Mainstream Interface

Due to the comorbidities and degenerative nature of many of DARE's clients, there have been a few admission to the public Health system, on each occasion DARE has been advised by Health it is a disability (NDIS) responsibility and by NDIS it is a health responsibility. As a result DARE has wasted considerable time seeking to recover the costs associated with the participant's interaction with health.

Whilst not directly involving DARE it is my understanding similar jurisdictional issues have also arisen in other sectors such as education, I acknowledge the existence of bi lateral State Government Agreements but based on DARE's experience these are not understood or being implemented in our region.

- Employment

Prior to the commencement of the roll out of NDIS in the region there were negative comments from senior NDIS management with regard to Australian Disability Enterprises (ADEs). Initially discussion of employment was avoided by LACs and planners, whilst raised and supposedly addressed, DARE has not received a referral or a new participant with employment in their plan since the start of the roll out in July, 2016.

After the issue of employment was raised on a number of occasions, DARE was advised that the problem was planners and LACs didn't understand the operations of an ADE. In response in the Blue Mountains and surrounding regions a number of providers offered tours of individual ADE's to planners and LACs only to be advised that they were too busy to avail themselves of the invitation.

Further the level of support for ADEs is based on a four tiered Commonwealth system and doesn't reflect the true support cost for each individual, at roll out the individual ADEs level of support by participant was averaged and became the amount for any new participant. This doesn't meet the true individual support costs for each employee and operates against a participant with more complex needs.

Irrespective of whether a true market is created, support costs need to reflect the true cost of support not pegged to an arbitrary level.

- Accountability



Based on my discussions with a range of Ministers, senior bureaucrats and the numerous submissions made by a range of organisations regarding the systemic problems within NDIS, nothing appears to change.

Currently participants are without second plans, providers aren't being paid, poor plans are continuing to be manufactured resulting in a choked review process and there is no functioning complaints system, none of this has just recently occurred. However no one appears to be accountable for this or appears able to bring about change.

Thank you for your consideration of the above and naturally if you require any further information please do not hesitate to contact me.

Andrew Daly
Chief Executive Officer





Attachment A – Productivity Commission Submission

**Response by DARE Disability Support to
Review of National Disability Insurance Costs
Contact Person: Andrew Daly, Chief Executive Officer
Dare 22nd March, 2017**

1. Introduction

DARE Disability Support (DARE) has been providing disability services to people with profound intellectual disabilities for over 50 years in the Blue Mountains region of New South Wales (NSW).

People supported in addition to profound intellectual disability have a range of comorbidities including physical and psychiatric issues, requiring a range of specialist modifications and behavioural issues including violence and self-harm.

Services include residential, community and centre based activities and an Australian Disability Enterprise.

DARE commenced the transition to the National Disability Insurance Scheme (NDIS) as part of the first NSW region.

2. Executive Summary

Given the large number of questions to which the Productivity Commission (Commission) is seeking a response and the fact that many of the issues noted below relate to a number of these questions, DARE has prepared this response based on our experiences of the participant's journey to date, with some additional issues and suggestions noted at the conclusion.

Whilst DARE notes the Commission's preference to only focus on the longer term issues, DARE's view is that unless all systemic issues are addressed they will form part of the policies, processes and culture of the NDIS moving forward, in the absence of change this will result in continued waste and expensive retrospective fixes, rather than delivering what participants and the community expect.

DARE has always been a supporter of the goals of improving the quality of life for people with disabilities, potentially through the NDIS however the experiences for most participants and families to date has been relatively poor with many too afraid to question or criticise the NDIS or Local Area Coordinator (LAC) network. Many people have advised of their unhappiness with the following:

- appalling planning process, that excludes consideration of information provided and relies on some unknown reference package,
- frustration is exacerbated by a participants inability to discuss their plan following their planning meeting, rather a finalised plan arrives in the mail,



- lack of knowledge and poor attitudes of LACs, including allegations of bullying,
- being forced to submit to a planning meeting by telephone,
- a contact centre that if a person can be reached provides little assistance or inconsistent information,
- decisions made unilaterally by an NDIS planner that never meets the participant,
- The requirement to access “My Gov” to manage their plans, most DARE clients have profound disabilities, are nonverbal, as a result not having mobile phone numbers or email addresses, where a provider has attempted to assist, depending on the NDIS contact person it is either a conflict of interest or access is made freely available,
- cancellation of mobility allowances and reinstatement only being available via “My Gov”,
- no Coordination of Supports from their LACs, resulting in underutilisation of funds,

Similarly DARE’s experiences to date have been relatively poor with a system that as acknowledged repeatedly and publicly by senior NDIS staff does not trust providers and considers them to be inefficient, this as David Bowen the Chief Executive Office, NDIS is the reason for the low fee hourly rates provided in the Fee guide.

Other issues around the portal have been acknowledged in numerous reports and in the main will not be repeated here other than in passing.

As will be noted the current systemic failures certainly do not meet a range of requirements in the National Disability Insurance Scheme Act (2013) (Act) or objectives noted in the issues paper including:

- person centred model, first plan strategy is based on historic funding levels,
- assessment based on individual needs, currently an initial conversation, base information input into a referral package, final plan unilaterally amended by an NDIS planner that doesn’t meet the client, this failure is demonstrated by the number of avoidable reviews,
- improved wellbeing of families, most participants and families report confusion and disappointment with their interaction with NDIS,
- efficiency gains and cost savings in the disability support system, failures across the board demonstrate this is not the case, with increased costs to meet NDIS requirements, and
- market based approach, providers operate in a monopoly with entrants, operations and fees decided by NDIS, no market exists as such,

Based on the issues as detailed below in the absence of change DARE’s fears that the NDIS will fail through being unable to contain costs:

- Whilst NDIS, believe it has a role in stewardship in the disability sector, clearly there a range of significant governance and process issues that require immediate solutions to prevent both a failure and substantial increase in cost pressures, this includes solutions to the portal, contact centre and review processes,
- The systemic issues relating to appropriate planning, management of the LAC network require an urgent review in order to improve the effectiveness of plans, ensure the welfare of the participant and value for money,



- Whilst services are built to an artificially low price and not based on individual aspirations, risks or environment, the market place will never develop,
- That a strategy be created to identify and create solutions to gaps that are created through the implementation of the NDIS, financed by using funds previously taken from Information, Linkages and Capacity Building to fund the LACs planning role. If LACs are to continue in this role then it should be funded as part of NDIS operations and ILC funding used as originally intended to fund strategies such as vacancy management, crisis care, services for people with a disability not eligible for an individual plan.
- Given NDIS has not managed the functions it was created for, at this stage it is difficult, notwithstanding the conflict of interest issues that are conveniently used to dissuade providers by NDIS, to understand any attempt to undertake direct service provision, rather the fee base needs to reflect the cost of operating in the individual market areas.

3. Expectations Created

Prior to and since the commencement of the full transition significant expectation was created through media campaigns funded by the NDIS and peaks including the Every Australian Counts campaign. These campaigns have created confusion, unrealistic expectations from participants as to what is available from NDIS, role of NDIS and providers. In DARE's view it has also been used to disguise the systemic failings in the system, which only appears to be acknowledged once they appear in the media, such as the portal problems.

If some balance is not introduced and boundaries identified this will lead to ongoing cost pressures exacerbated by ongoing reviews.

As with much of the NDIS, DARE does not have access to either the media budget or the marketing strategy funded by NDIS or whether this included in their administration costs, but prima facie believe that the current strategy be reviewed with a focus towards reducing confusion and explaining the process.

Ignores risk, return etc.

4. Portal

Problems with the portal have been well documented and won't be repeated in this response other than to note the frustration and costs incurred by DARE with connectivity, corrections required as a result of NDIS planners incorrectly inputting plans, difficulties with bulk upload and the disastrous attempts to create a quoting system.

The Commission's attention is drawn to one issue that now appears to be resolving itself, given the lack of confidence in the portal DARE has been and continues to manually input all billings, at one point the "system" was unilaterally amending the monetary value paid. After advising NDIS on a number of occasions and wasting considerable time, NDIS was advised that in the future DARE would raise an additional invoice to offset any short falls and keep any overpayments due to the costs and governance issues in creating a correction.



No response was received to this last email, but it clearly indicates both a significant governance issue within NDIS and the likelihood of mistakes occurring across the network. Clearly DARE cannot comment on the magnitude of these mistakes or impact on the NDIS budget.

5. Contact Centre

Much of the frustration and confusion created during the transition may have been mitigated if an efficient contact centre had been created that was capable of responding in a reasonable time frame and provided consistent and meaningful information, unfortunately this did not occur.

Examples of problems with contacting the centre include:

- extremely long wait times, with many participants and providers hanging up,
- inconsistent information, being referred on and lost,
- excuses for not being able to assist, including the operator was viewing a different screen to either the provider or participant,
- information not provided as to whom the person was talking to resulting in having to try and ring back and re explain the issue.

All the above caused and continue to cause immense frustration and cost.

These problems were acknowledged by NDIS staff on many occasions with suggestions that DARE employ staff on a Saturday to make contact or email queries. As an aside the longest time DARE has been informed of for an agency to receive a return phone call was four months.

6. Contact with NDIS office

One participant's family in frustration following numerous attempts to discuss an exceptionally poor plan with the contact centre went directly to the Penrith office, only to be informed that staff were too busy to speak with them. On advice from DARE they returned, refused to leave and as a result had the plan substantially amended on the spot, no review process was required. Their experience of seeking a plan change without a review was repeated in a number of other instances of which DARE is aware.

Clearly there are a range of issues including a poor planning process as detailed separately, governance issues unilaterally changing a plan without process, the costs and associated time lost. In addition the parents who are both elderly and provide substantial informal care, in the absence of this change would have relinquished care, creating far greater cost to the NDIS.

7. First Plan

The first plan as described in the Commission's issues paper (issue's paper) is not the concept of a "first plan" as understood or implemented in the Blue Mountains region and I assume elsewhere by the NDIS. Advice was that the first plan would replicate existing funding for an individual based on information provided by Department of Family and Community Services, Aged, Disability and Home Care (ADHC).



This was confirmed by ADHC staff and reflects the vast majority of initial plans received; clearly this approach is not based on individual need and given previous ADHC funds were based on available funds not need, suggests the likelihood of the quantum of plans increasing in future years.

As part of the “first plan” approach, DARE’s experience was that the significant pre-planning package created to assist the participant was ignored in some instances placing the participant at substantial risk. For instance one participant with an intellectual disability and dysphagia, despite reports from DARE and a speech therapist being provided, no reference to the potential choke hazard was included in the plan.

The flaws in this approach together with the planning process itself are reflected in the extremely high level of reviews sought, again creating additional and avoidable cost.

8. Local Area Coordinators

DARE’s understanding of the role initially envisaged for the LACs namely frontline problem solving and assistance with plan implementation appeared to change shortly before transition to offset, TO planning and Coordination of Supports for non-complex participants, surely a foreseeable gap in NDIS planning resources.

This role has been outsourced in NSW to two large providers, both of whom provide disability services in the NDIS market place however this is not deemed a conflict of interest.

The process introduced and applied until recently is that the LAC arranges a formal meeting (not telephone), completes base information which is input into a “reference package” to create a plan. DARE is not familiar with the contents or operation of this reference package, as advice is that as service providers we cannot be trusted with this information.

This plan is then reviewed by an NDIS planner, who never meets the participant and a final plan without discussion with the participant, is mailed out. Changes to this plan require a formal review (refer below).

DARE is aware of issues being raised by other providers and participants with regard to the level of training, behaviour and attempts to stream participants to the LAC’s employing agency. It is our understanding that NDIS has addressed these issues, once identified.

A number of DARE participants report being too afraid of reprisals to raise their specific experiences and have avoided meetings. The issue’s paper is the first occasion that DARE is aware of where LAC’s practice in the first instance is to conduct planning meetings by telephone, this has certainly not been the case in the past and appears to reflect desperation in meeting deadlines rather than creating an effective plan based on the individual’s aspirations.

Similarly given the nature and severity of disabilities within the DARE client group, many being nonverbal this appears to reflect a lack of understanding of all disabilities.



An example of the results of the poor planning process is that recently a participant received \$24,000 for the purchase of incontinent aids, despite not being incontinent.

In addition as I am sure others will confirm there is a wide variation in both the quality and funding included in plans, in many instances between participants with similar needs.

9. NDIS Planners

As with LACs, DARE'S experiences with NDIS planners have been mixed with many lacking an understanding of disabilities or having a very biased view of what a participant may access. In our view the disconnect between the planners and participant is a significant flaw, reducing accountability and placing participants at risk and creating the potential for inappropriate funding of supports.

In recent times DARE has become aware of planners seeking unilaterally to reduce supports, there is an extract below of a recent email between a DARE staff member and a planner who demanded additional information, who prior to receiving this information advised that the participant being discussed as part of a review would never receive the requested supports as she was a mother with a disabled child and she didn't receive similar.

"My understanding of our conversation is that you were seeking justification to adjust xxxx plan from higher intensity to a lower level of support as you believe that she does not require a higher intensity level of support...

and advise as follows that xxxx requires full 1:1 assistance for all of her activities this includes:

- ☐ Physical assistance to participate in activities including Music, Arts, crafts, Sensory programs, Physiotherapy and community access,
 - ☐ Full physical assistance with personal care,
 - ☐ Has complex needs with specialists overseeing her supports including speech therapists and Occupational therapists for seating and positioning,
 - ☐ Often chokes and needs staff with higher level skills to prepare her meals in accordance with her nutrition plan and training to manage obstructed airways / dysphasia,
 - ☐ Requires two staff for assistance with all transfers via hoist for personal care during the day.
 - ☐ Has an epilepsy management plan and often has seizures at the day program.
 - ☐ Is non-verbal and requires additional support to communicate her needs
- ☐ Has atrophy in her joints and muscles, requires seating and positioning by trained staff in accordance with her seating and positioning plan. Without higher levels of support she is at significant risk of further atrophy and or injury should staff not understand how to safely deliver her supports.

If you have any doubts with regard to xxxx or her needs I suggest that the NDIS, come and meet xxxx"



The planners advice was that the participant could attend a group, although not be actively engaged at a cheaper rate, this not only represents in DARE's view a false economy, does not meet a standard of care but reinforces the disconnect between planners empowered to make life changing decisions and the participant.

Planners have inordinate power but not accountability

10. Coordination of Supports (COS)

As the Commission may be aware the provision of this service, based on NDIS advice to mid June last year was that a service provider could not undertake this role, due to conflict of interest concerns, something to consider if NDIS is to become a provider of last resort.

After repeated advice that a provider could not undertake the role at short notice and surely this was foreseeable providers were strongly encouraged to undertake this function in order to enable a participant to commence their plan, there was clearly a lead time required for providers to recruit and train staff. Once commenced, NDIS then unilaterally decided, and subsequently retracted, that it would appoint COS to individual participants.

As a result many plans for complex participants were slow in commencing, for noncomplex participants who are deemed not eligible for COS, they were reliant on LACs who with few exceptions did nothing other than the plan. This is most likely the key reason for underutilisation certainly in the first six months of operations.

Accordingly the true cost and rate of utilisation of funding included in plans will most likely be apparent in the second half of the financial year.

11. My Gov Account – NDIS Portal

A source of frustration both for participants, families and providers was the requirement that all participants required My Gov accounts in order to access the NDIS client portal, with the expectation that participants will be able to register and use information contained within.

In order to register for My Gov requires a mobile phone number and an email address. There was an immediate need to create access as the former mobility allowance was cancelled on the day a plan was approved and there was no automatic updating of banking details. Supposedly this was information the LAC was to collect but this did not occur.

This resulted in many DARE clients not receiving their mobility allowance for a number of months.

DARE as with many other providers at it's expense created accounts for client's utilising DARE services via organisational mobile phones, there was a restriction on the number of phones that could be linked to an individual account and gmail accounts. In order to access these accounts, once created requires a validation code sourced from NDIS however after creating these accounts, some staff in NDIS decided that as a provider there was a conflict of interest and wouldn't release the code, other than to the



participant, who in many instances is nonverbal and has no or a limited ability to understand what the account is.

The NDIS imposed requirement to force participants, many of whom have no capacity to utilise the site and choose not to provide information by alternate means results in clearly a restriction on the participant but also poor utilisation of the plans.

12. Reviews

As a direct result of the poor planning process, NDIS has been inundated with requests for reviews, with many additional resources being reallocated in order to meet the long delays.

Clearly this is a costly process as is the correction to any systemic problems, until recently a review could take up to four months, a problem given plans are only written for one year, clearly this could have been resolved early as is occurring now by improving the quality of plans and if the plan is discussed with the participant rather than merely posting a document that has been created “in camera”.

NDIS appear to be very inflexible and hence creating further costs in modifying their systems to create efficiencies for instance DARE has also suggested the following in order to both reduce lead times and costs for NDIS.

In current plans participants seeking alternative accommodation in a group environment, this is identified in the plan however once suitable accommodation is identified a plan review is required to allocate funds, absorbing time, energy and costs as well as creating holding costs for the provider,

In order to fund a Supported Independent Living (SIL) placement NDIS requires three pieces of information namely:

- A person is eligible for NDIS, clearly if they have a plan this has been met,
- The level of support required, for instance Lower needs, Standard or High, and
- The number of residents in the SIL.

As an alternative to a formal review, subject to the plan identifying SIL and the level of support required, if the provider provides a statement with regard to the number of residents, DARE believes the process sufficient to allocate funding, obviating the need for a formal review. The number of residents can be easily verified in a subsequent audit.

NDIS’s response to this has been providers aren’t trusted and as a result a formal review required.

13. Fees

- Basis of calculation
- Changing mix of clients
- Lack of consideration of individual needs / risks



- Possible day rate – greater efficiency
- Cherry picking of clients
- Ignore client whilst do set up, clean up organise activities etc.
- Built to a price not a standard
- Market growth won't happen unless there is sufficient cost recovery
- Link to statement that senior management believe fees are low because providers are inefficient not based on facts
- Allocation for overheads in other services industries law, accounting – don't have the same responsibilities for an individual's welfare

14. Transport

- Linked to independence
- No provision in budget beyond mobility allowance
- Note issues being in a regional area - Warragamba

15. Assessment Tool

- Bowen previously advised assessment tool not necessary as all staff so well trained on everything to do with disability
- Invest in an assessment tool that captures individual need
- Removes current inconsistency and widely varying plans
- Based on number of reviews current system not working

16. Future Estimates

- Already freezing entry to new clients
- Never collected data only data on funded services
- Creating demand due to availability of funds

17. Information, Linkages and Capacity Building

- Guttled to fund LACs to do planning
- Intended to cover gaps,

18. Vacancy Management

- Refer Prentice Letter

19. Crisis Care

- As per vacancy management, nothing replacing state service

20. Regional Costs



- Maybe covered in transport however might be worth a another go

21. NDIS Culture

- Continuing comments from senior NDIS management service providers aren't trusted, permeates the agency and it's dealing – reduces goodwill
- This has been an ongoing problem,

22. NDIS Quality and Consultation

- Significant issue and lack of accountability for NDIS and it's operations
- Independent consultation attended was no more than an excuse for NDIS mistakes and wasn't a consultation at all, needs to be separate from NDIS, reporting directly to the Board

23. NDIS Administration

- Query substance of numbers, previously caught manipulating data, David Gillespie raised in Senate committee use of people with zero packages included in average and change of treatment of equipment purchased
- What does admin include

24. Main stream Services

- Cost shifting to main stream services