

2020

SUMMARY REPORT

The NDIS Market in Queensland



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Foreword

In April 2020, the Queensland Government directed the Queensland Productivity Commission to undertake an inquiry into the National Disability Insurance Scheme (NDIS) in Queensland. This report presents our draft findings and recommendations.

The NDIS represents the nation's largest social reform of recent decades. It is a joint Commonwealth-state initiative intended to transform the lives of hundreds of thousands of Australians who live with permanent and significant disability. It does this by establishing a market for disability supports, with scheme participants as consumers and support providers as suppliers. This is a highly innovative approach and, as with so many significant initiatives, has faced implementation challenges.

The NDIS commenced in Queensland in 2016 and was then phased in across the state over three years. Although the transition phase in Queensland officially concluded two months ago, the scheme continues to grow and develop. The transition of people into the scheme is continuing and the NDIS market is still maturing and will continue to do so for some time. After nearly five years of operation, this is an opportune time for a review of the NDIS market in Queensland, both to consider how the scheme is performing and to identify opportunities for improvement. As the NDIS represents a large investment by the Australian community to support some of the most vulnerable members of our community, it is all the more important that it is working well.

To date the focus has largely been on transitioning people with a disability into the scheme. The Commission's draft report contends that the scheme now needs to shift its focus to making the NDIS market work more effectively and efficiently as a way of securing the overall objectives of the scheme and improved outcomes for people with a disability.

Opportunities exist to address suboptimal market performance through a targeted and balanced approach to reforming the scheme's large and overly complex regulatory and policy framework. Our draft recommendations identify incremental policy and regulatory changes designed to improve the scheme by increasing information and supports to allow better decision-making, realigning incentives to deliver scheme objectives, simplifying processes and reducing regulatory compliance burden, providing greater flexibility and improving governance of the scheme to support enhanced oversight of performance monitoring and scheme objectives.

A wide range of stakeholders have made invaluable contributions to the draft report—NDIS participants and their families and carers, providers, peak groups, participant advocates, academic and other experts, the Queensland government and its agencies and statutory bodies, and NDIS regulatory agencies such as the National Disability Insurance Agency and the NDIS Quality and Safeguards Commission. These contributions have been made during a difficult time when there have been other pressing concerns and priorities, including the COVID-19 pandemic and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. I would like to sincerely thank all these individuals and organisations for their contributions.

I encourage all stakeholders to consider the draft report and its interim recommendations, findings and requests for information. Submissions are due on 4 February 2021 and there will be opportunities to engage in further consultation with the Commission in the form of public hearings and forums. The Commission will also continue its program of meetings, discussions and visits.

Finally, I would like to thank the staff for their commitment and highly collaborative effort in preparing this draft report and for their agility in adapting our processes and approach to consultation in response to the COVID-19 pandemic.

The Commission looks forward to hearing from you.



Dr Karen Hooper
Principal Commissioner

30 November 2020

Have your say

The Queensland Government has directed the Queensland Productivity Commission (the Commission) to undertake an inquiry into the National Disability Insurance Scheme market in Queensland.

This draft report provides an opportunity for consultation on the issues raised by the inquiry—and, in particular, on our preliminary analysis, findings and recommendations.

The final report will be prepared after further consultation and will be provided to the Queensland Government in April 2021.

Make a submission

The Commission invites all interested parties to make a submission to the inquiry. Submissions are due by close of business **4 February 2021**. They can be lodged:

- *online* <http://www.qpc.qld.gov.au/inquiries>
- *by email* enquiry@qpc.qld.gov.au
- *by post*

Inquiry into the NDIS market in Queensland

Queensland Productivity Commission
PO Box 12112
George St
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Submissions will be treated as public documents and published on the Commission's website. Please do not include offensive or defamatory information.

If your submission contains genuinely confidential material, please note this on the front page and mark relevant sections as CONFIDENTIAL. Please provide another version that omits these confidential aspects so it can be made available on our website. Contact the Commission for more advice if you are concerned.

Enquiries regarding this project can be made by telephone (07) 3015 5122 or online at www.qpc.qld.gov.au/contact-us

Key dates

Draft report released
30 November 2020

Submissions due
4 February 2021

Public hearings
5 & 8 February 2021

Final report submitted to the Queensland Government
30 April 2021

The Queensland Productivity Commission is an independent statutory body that provides independent advice on complex economic and regulatory issues.

The Commission has an advisory role and operates independently from the Queensland Government—its views, findings and recommendations are based on its own analysis and judgments.

Further information on the Commission and its functions can be obtained from the Commission's website www.qpc.qld.gov.au

Key points

- The National Disability Insurance Scheme (NDIS) was introduced into Queensland in 2016 and now has nearly 79,000 Queensland participants and over 5,000 active registered providers in the state.
- By constructing the NDIS market, in which consumers of supports connect directly with providers, the scheme aims to deliver more tailored, responsive and innovative services to people with a disability and improved life outcomes.
- The design of the NDIS is participant-centred with the objective of enabling people with disability to exercise choice and control and supporting their independence and social and economic participation.
- Stakeholders strongly support the scheme—it has transformed the delivery of disability services by increasing the funding for disability services in Queensland by around 150 per cent, affording access to support for the first time for half of Queensland participants, and providing greater choice and control for around three-quarters of Queensland participants. The scheme is also improving participants' daily lives, relationships and social participation.
- However, the scheme is still maturing and clear improvements in areas which could be expected to take longer to develop—such as in employment, learning and accommodation—are less apparent. Importantly, the scheme's regulatory and policy framework is operating in a way that impedes the effective and efficient functioning of the NDIS market. A targeted and balanced approach to reforming aspects of the scheme is needed to secure the full potential of the NDIS and improved outcomes for participants.
- The NDIS has multiple, sometimes conflicting, objectives—on the one hand, to provide choice and control and build capacity while, on the other, to provide consumer protections, limit supports to those that are reasonable and necessary and maintain the financial sustainability of the scheme. Balancing these objectives has given rise to an extensive regulatory and policy framework that:
 - is large and overly complex, with over 1,400 pages of legislation, regulation, operational guidelines and policies, administered by two specialist agencies with over 4,000 staff and oversight by a council of Australian, state and territory government ministers
 - is cumbersome and can be slow to respond—after nearly five years of operation in Queensland:
 - while 90 per cent of projected participants have transitioned to the scheme, certain cohorts remain underrepresented
 - challenges remain with the planning and goal setting process and procuring supports, with over 40 per cent of Queensland participants using less than half of their plan budgets
 - is insufficiently flexible, which reduces effective choice, innovation and supply options, and in some cases, creates inequitable outcomes and incentives that are inconsistent with the intent of the scheme
 - creates a large and sometimes disproportionate regulatory burden
 - introduces high policy and regulatory risk for providers, which deters new entrants, investment and innovation
 - provides insufficient information and constrains market mechanisms, which limit the effective functioning of the market.
- Overall, there are opportunities to address suboptimal market performance, and improve outcomes for participants.

- The enormity of the introduction of the NDIS and its relative stage of maturity—the transition in Queensland was completed in September 2020—means learnings for regulators and government should continue to emerge as the market develops and evolves. To date the focus of the scheme has been on transitioning people into the scheme. With the scheme now fully operational, the focus needs to be on making the NDIS market work more effectively and efficiently to secure the scheme’s overall objectives and improve outcomes for people with a disability.
- Several policy and regulatory changes could be made to improve the scheme:
 - realign participant, provider and agency incentives to deliver market outcomes consistent with scheme objectives
 - increase the availability of information and, if necessary, supports to allow better decision-making
 - simplify processes and reduce compliance burden to decrease costs and inefficiencies
 - provide greater flexibility and remove restrictions to allow participants, providers and agencies to operate more effectively and efficiently
 - improve the governance of the scheme to support oversight of performance monitoring and the focus on scheme objectives.
- In some cases, better market performance will require improved regulatory settings, for example; by clearly defining ‘choice and control’ and ‘reasonable and necessary supports’; and improving regulatory processes to unlock work, learning and other participation opportunities.
- In other cases, better market performance will require a measured relaxation of regulatory settings:
 - NDIS submarkets operating under competitive conditions should be placed on a pathway towards price deregulation, with price caps replaced by price monitoring and price information as an intermediate step. About 70 per cent of the Queensland market could be placed on this pathway within two to three years.
 - Participants should be encouraged, when capable, to self-manage plans, and price caps should be removed for participants on plan-managed plans who have the capacity to self-manage.
- Reforms to facilitate participant choice and provider investment should include:
 - making market information available, for example, on the needs and location of participants
 - Development of the accommodation market, in particular, would be supported through better market information and efficient mechanisms to match participant demand with accommodation supply
 - improving market coordination through eMarketplaces and better support coordination
 - reviewing regulation to ensure it is the minimum necessary to achieve its objectives
 - introducing a ‘provider guarantee’ to reduce policy and regulatory risk.
- A ‘one-size-fits-all’ approach should not be applied to the stewardship of markets. Some NDIS submarkets, mainly in some rural and remote areas, may not be viable in their current form and may require alternative approaches, such as demand pooling, to support market supply or direct commissioning of support provision.
- The current reform of intergovernmental forums presents a timely opportunity to reset the high level governance of the NDIS. The new body of disability reform ministers should retain an important role for the states and territories, and be given the responsibility and capacity to effectively oversight and drive the development of the NDIS and its market, while preserving the independence of the NDIS regulators in operational matters.

1 What is the inquiry about?

The National Disability Insurance Scheme (NDIS) is the nation's largest social reform of recent decades. Supported by a significant increase in funding, the scheme is a joint Commonwealth–state initiative intended to introduce market and insurance elements to the provision of disability services.

The NDIS seeks to improve life outcomes, increase opportunities, and provide choice and control to eligible people with a disability. It is designed to allow scheme participants to directly engage service providers, so that service provision will be more responsive to participant needs.

The NDIS commenced in Queensland in January 2016, with the scheme available in all areas of Queensland from January 2019. After nearly five years of operation of the NDIS in Queensland, this inquiry has been established to review the performance of the NDIS market in delivering disability services to meet the needs of Queensland participants.

What we have been asked to do

In April 2020, the Queensland Government asked the Commission to undertake an inquiry into NDIS transition and market development in Queensland. The terms of reference require the Commission to:

- review the performance of the NDIS market during transition in Queensland
- investigate and report on NDIS market conditions and prospects
- investigate and report on the Queensland Government's role in the NDIS, in relation to the authorisation of restrictive practices and preparation of Positive Behaviour Support Plans
- recommend options for improved policies and measures to ensure the NDIS market in Queensland will meet the needs of participants both now and in the future.

To meet the requirements of the terms of reference, the Commission has examined:

- the efficiency and effectiveness of the NDIS market in Queensland

- structural, regulatory or other impediments to the efficient operation of the NDIS market
- factors affecting specific submarkets or market segments, including in rural and remote areas.

The draft report sets out the Commission's analysis, findings and recommendations for consultation. A final report will be prepared following consultation and submitted to the Queensland Government by 30 April 2021.

Inquiry scope

The focus of this inquiry is the NDIS market. It also examines the relationships of the NDIS with adjacent markets and schemes, and governance arrangements.

The inquiry does not replicate the many reviews undertaken of the NDIS in recent years, although it will draw upon their findings.

While these reviews focussed largely on national issues, this inquiry will focus on the NDIS market in Queensland—the experience of Queensland participants and providers and issues of particular importance for Queensland.

Notwithstanding this, many issues and lessons will be relevant across the NDIS and, given the national nature of the scheme, some solutions will need to be progressed in consultation with other governments.

Our approach

The Commission has focused its analysis on three key questions:

- Is the NDIS in Queensland effective in achieving its purposes and objectives, and could its effectiveness be improved?
- Is it efficiently providing services that meet the needs of participants when and where they need them, in the least costly way and at prices they are willing to pay given their plan budgets, and could its efficiency be improved?
- Is it encouraging continuous improvement by providers to find better ways of meeting participants' needs, and could the incentives to do this be strengthened within the constraints of the scheme?

The Commission has adopted an economic framework to understanding and analysing these market issues, using economic concepts and methods, such as efficiency, opportunity cost and cost-benefit analysis.

Consultation

The Commission operates on a public inquiry model, underpinned by open and transparent consultation.

This draft report presents the Commission's findings and recommendations based on its analysis of the evidence provided by a broad range of stakeholders, governments and members of the public.

To this stage in the inquiry, the Commission has consulted with more than 325 people, holding:

- around a hundred discussions with stakeholders
- nine virtual roundtable sessions with participants, providers and experts
- two focus group sessions with participants and carers
- regional consultations and site visits in Cairns, Townsville and Rockhampton

We also received 42 written submissions and eight comments.

To prepare the draft report, we consulted before and following the release of our issues paper (June 2020). The Commission adapted consultation arrangements to ensure that stakeholders were able to participate in the inquiry while maintaining social distancing requirements. Despite the disruption from the COVID-19 pandemic, the Commission was able to maintain a similar level of consultation to previous inquiries.

Consultation will continue following the release of the draft report. The Commission will be seeking the views of participants, providers and other stakeholders after the release of the draft report.

The Commission will be:

- organising discussions with stakeholders during December and January
- seeking submissions from stakeholders, due Thursday 4 February
- holding public hearings on 5 and 8 February.

2 The NDIS in Queensland

The NDIS funds eligible persons with a disability for the supports they need for day-to-day living and to achieve their goals.

Before the NDIS, most disability services were provided directly by government, or by non-government or other organisations that were directly funded by government. The NDIS seeks to transform the disability support market so that:

- participants exercise choice and control over the services they receive
- services are supplied by a broader range of providers who are paid directly by those using their services.

Through directly connecting consumers of supports with providers, the NDIS aims to deliver more tailored, responsive and innovative services to people with a disability and therefore improved life outcomes.

Figure 1 depicts the basic structure of the NDIS.

Tables 1 and 2 provide some key statistics and features.

Figure 1 The NDIS

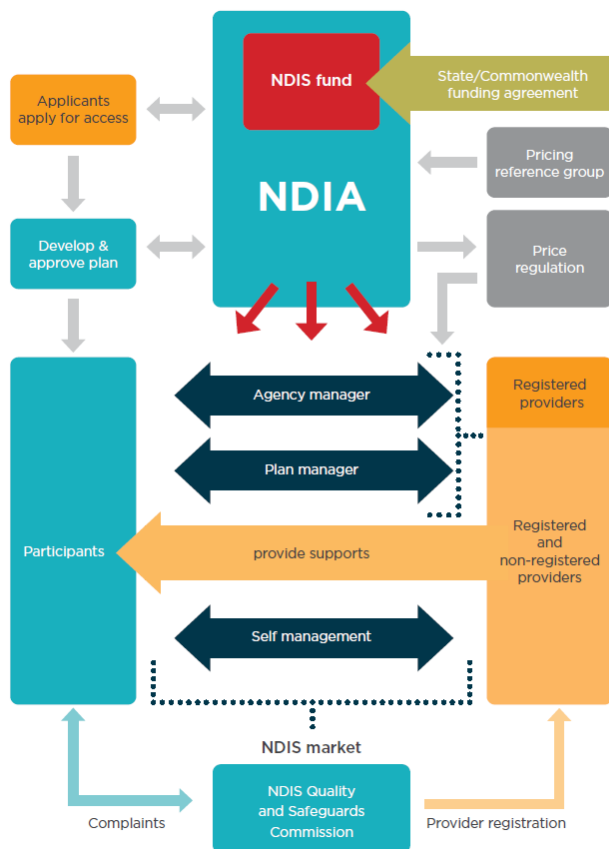


Table 1 Key NDIS statistics

	Queensland	Australia
Participants (Sep 2020)	78,811	412,543
Active registered providers (Sep 2020)	5,254	15,319
Average annual plan payments (2019–20)	\$56,600	\$50,800
Utilisation of plan budgets (Sep 2020)	69%	69%
Total payments to participants (2019–20)	\$3.5 billion	\$17.0 billion

Table 2 Key features of the NDIS

Participant eligibility	To enter the scheme, a person must be under 65 years and have a permanent and significant disability, or a disability for which early intervention will reduce their future needs. Once admitted into the NDIS, participants set up an NDIS plan in order to receive funding to purchase necessary and reasonable supports from providers.
Plan management	Participants can apply to self-manage the payment of providers or choose to use a plan manager or an NDIA agency manager to manage payments. Agency-managed plans must use supports from registered providers and pay prices no greater than set out in the pricing regulations. Plan-managed plans may use unregistered providers, but the pricing restrictions still apply. Only self-managed plans are free from both restrictions.
Support providers	Supports are purchased by participants from support providers, who are often not-for-profit organisations.
Regulating agencies	The key agencies regulating the NDIS are the National Disability Insurance Agency (NDIA)—which administers eligibility criteria for applicants, plan development and approval, and market stewardship (including price regulation)—and the NDIS Quality and Safeguards Commission (QSC)—which regulates the safety and quality of provider supports.

The NDIS as a constructed market

The NDIS market is very much a constructed market, created by government and largely operating within its own distinct legislative, regulatory and policy framework with the aim of delivering on the scheme's overall objectives (Box 1). The scheme is established under the *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act), supported by a large number of NDIS Rules. Specialist regulatory agencies—the National Disability Insurance Agency (NDIA) and the NDIS Quality and Safeguards Commission (QSC) administer the scheme through operational guidelines, policies and practice standards and together employ over 4,000 staff.

Box 1 Objectives of the *National Disability Insurance Scheme Act 2013* (Cth)

The objectives of the NDIS Act include:

- supporting the independence and social and economic participation of people with disability
- providing reasonable and necessary supports for participants
- enabling people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports
- facilitating the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability
- promoting the provision of high quality and innovative supports to people with disability to maximise independent lifestyles and full inclusion in the mainstream community.

The NDIS Act also requires that, in giving effect to the objects of the Act, regard is to be had to 'the need to ensure the financial sustainability of the NDIS'.

Resourcing the NDIS

Since 2015–16, expenditure on disability services in Queensland has increased by around 150 per cent.

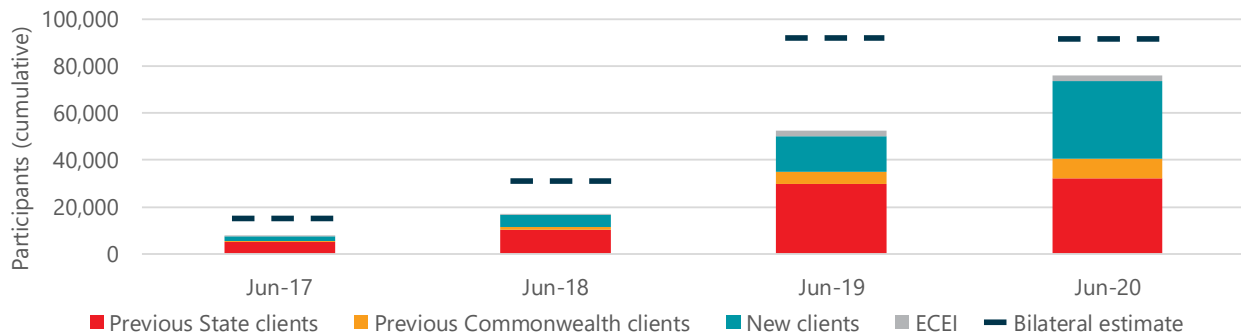
In 2019–20, the NDIA and QSC had total expenses across Australia of about \$19 billion, of which over 90 per cent is spent on participant plans. The scheme currently requires a financial commitment of more than \$4 billion per year in Queensland, around half of which is funded by the Queensland Government, with the balance provided by the Australian Government.

Transition

Reflecting the significant task of scheme rollout, implementation of the NDIS occurred in stages. Queensland began transitioning into the scheme by region from January 2016, with early transition in Townsville, Charters Towers and Palm Island. This was followed by a region-by-region rollout over three years from July 2016. Transition officially concluded on 30 September 2020.

As at September 2020, 78,811 participants have been transitioned into the NDIS in Queensland, with a further 2,327 children aged under seven years receiving supports through the Early Childhood Early Intervention (ECEI) program. This is fewer than the 91,217 participants that were expected to be transitioned by June 2019 (Figure 2). Queensland’s rate of transitioning people with a disability into the scheme was slower than most other jurisdictions, with the state having to face various implementation challenges. One of these challenges was that about half of participants were not receiving disability supports prior to the NDIS.

Figure 2 NDIS participants compared to estimates upon scheme commencement, Queensland



Note: The bilateral estimate is the estimated intake of participants in the 2016 Bilateral Agreement between the Commonwealth and Queensland.

Source: DCDSS 2018, p. 4; NDIA 2020b, p. 247.

3 Participants in the NDIS market

Positive outcomes, but full potential not yet realised

The NDIS market is delivering positive outcomes for many Queenslanders with a disability, who are receiving more and better supports than previously, including increased assistance for their families and carers.

Before NDIS access my son did not receive any support other than from me. Receiving support has made a big difference to him in that he feels that his disabilities have been recognized as genuine and that his life has value. (Carer's comment to inquiry)

NDIS participants in Queensland are generally receiving more disability supports than before the scheme—for example, around half of the Queensland participants in the NDIS did not receive disability supports from the state prior to their entry into the NDIS. The increase in disability supports reflects the approximately 150 per cent increase in funding of disability supports in Queensland since the introduction of the scheme.

NDIA surveys indicate that the NDIS has improved the daily living activities of around 80 per cent of Queensland participants in the NDIS, improved social participation for around 70 per cent, and improved the health and wellbeing of around 55 per cent of participants (Box 3). There is less evidence that it has provided significant improvement in employment, learning and housing outcomes, although improved outcomes in these areas may take longer to be achieved.

While around three-quarters of Queensland respondents to NDIA surveys report they have more choice and control over their lives (Box 2), stakeholders have told the Commission that many Queensland participants struggle with elements of the NDIS that affect their ability to realise the scheme's full potential, in particular:

- the complexity of the scheme can make it difficult for participants to understand and use
- inadequate information and assistance for participants when developing and utilising a plan
- the limited supply of supports in some areas, particularly rural and remote, and some types of supports, such as allied health.

These challenges affect some participants more than others—particularly Queenslanders with a disability who:

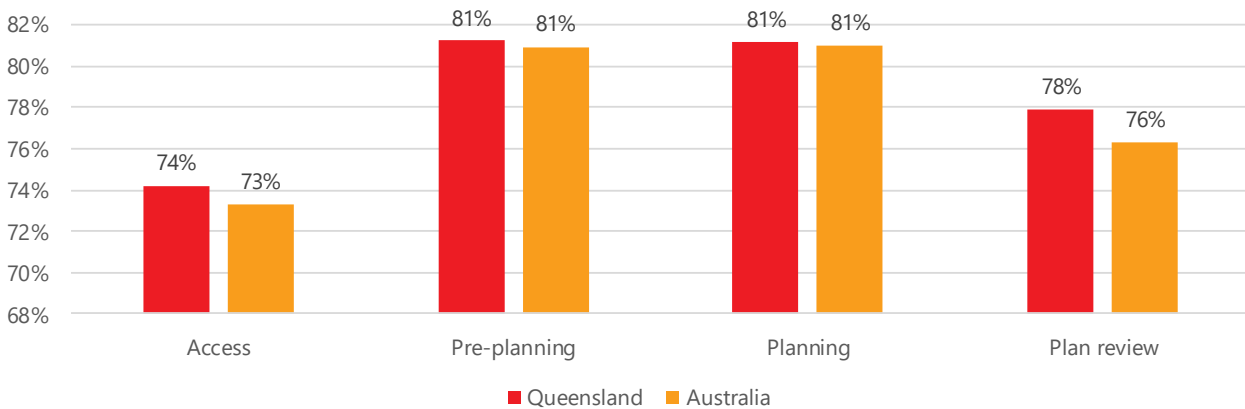
- have a culturally and linguistically diverse (CALD) background
- live in rural or remote areas
- are Aboriginal and Torres Strait Islander people
- have complex, usually psychosocial, disabilities.

These issues constrain the effectiveness and efficiency of the NDIS market in delivering the right level and mix of supports to participants. As a result, not all participants are deriving the full benefits of the scheme and outcomes are not as good as they potentially could be.

Complexity of scheme processes was a common theme in consultation. In some instances, participants find the processes not only confusing, but distressing. Access to the scheme for eligible people remains a particular issue, having the lowest rates of satisfaction in NDIA participant surveys.

Once in the scheme, survey results suggest around three-quarters of participants have a positive experience (Figure 3), leaving 20 to 25 per cent of participants for whom the experience is not so positive.

Figure 3 Percentage of participants who rated their experience as very good or good, 30 June 2020



Source: NDIA 2020af, pp. 120, 272.

The view that a significant proportion of participants have some level of dissatisfaction with the scheme is also supported by feedback from stakeholders and confirmed by the findings of other inquiries. The level of utilisation of participant plan budgets also suggests a significant number of participants are not receiving the full range of reasonable and necessary supports recommended for them (Box 2)—over 40 per cent of participants in Queensland are utilising less than half of their plan budgets. Aboriginal and Torres Strait Islander people, people living in rural and remote areas, and people with certain disabilities (such as psychosocial disabilities) tend to have even lower utilisation rates.

The concerns with access and planning processes, coupled with low budget utilisation, suggest the scheme is yet to deliver on its full potential.

Interviewees all expressed a lack of understanding about the NDIS rules, especially supports they are entitled to, what evidence or supporting paperwork they need to put forward a case, and when or how they can argue more strongly for what they want. In general, there was a sense of needing to know the NDIS system, but the NDIS system itself not providing adequate information, so individuals needed to seek their own information from providers, informal personal networks, advocacy organisations and build up their own knowledge base and self-educate on appropriate supports to request. However, this wasn't always easy, with sometimes conflicting understandings/information, as well as regular changes to NDIS rules ... For a number of individuals, even once they had received a plan, they found how to use the budget "very confusing", and a barrier to be able to self-manage. (Submission to the inquiry from The Hopkins Centre, based on interviews with eight participants from South East Queensland)

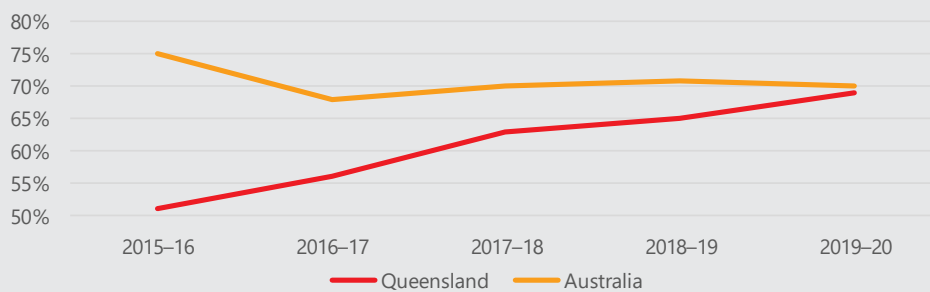
These issues do not appear to be restricted to Queensland. Generally, Queensland's results are similar to Australia's, suggesting the issues are systemic.

Box 2 Two key NDIS objectives—providing ‘reasonable and necessary’ supports and ‘choice and control’

A key objective of the NDIS is to provide participants with reasonable and necessary supports. While participants specify their goals, the NDIA assesses (in consultation with the participant) and approves the ‘reasonable and necessary’ supports the person requires. Thus, how ‘reasonable and necessary’ supports is defined can have a critical influence on the outcomes for participants and the scheme’s financial sustainability. Yet there is no clear definition of what ‘reasonable and necessary’ actually means.

An indirect indicator of whether participants are receiving the reasonable and necessary supports they need is plan budget utilisation, which measures the proportion of budgets that have been spent. Although the average rate of budget utilisation has been increasing and is now comparable with the national average, Queensland’s average rate is under 70 per cent (Figure 4) and uneven, with 41 per cent of Queensland participants having a utilisation rate of under 50 per cent.

Figure 4 Plan budget utilisation, Queensland and Australia



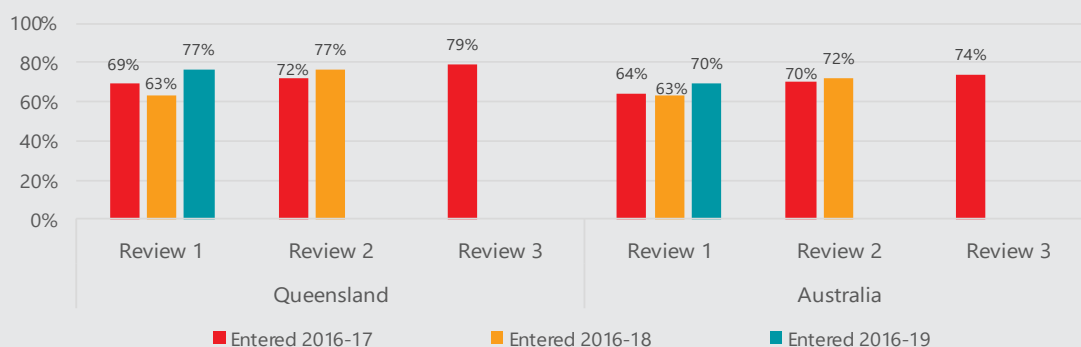
Source: NDIA 2020a, pp. 151, 295.

Another key objective is to provide participants with ‘choice and control’. The NDIA defines this as a participant’s ‘right to make their own decisions about what is important to them and to decide how they would like to receive their supports and who from’. However, this does not specify the decisions the participants have choice and control over, creating ambiguity over the scope of a participant’s choice and control.

Most Queensland participants report the NDIS has provided them with more choice and control (Figure 5). However, around a quarter of participants do not share this positive view, although this proportion falls the longer participants are in the scheme.

Box 3 discusses how the scheme is delivering better outcomes for participants.

Figure 5 ‘Has the NDIS helped you have more choices and more control over your life?’ (% yes)

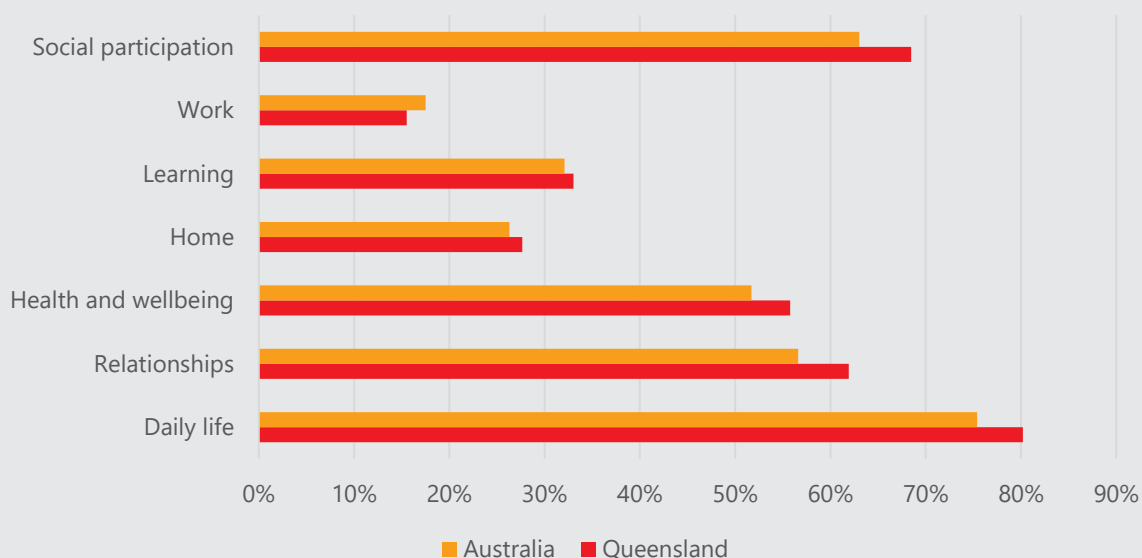


Source: NDIA 2020a, pp. 262–266; QPC estimates.

Box 3 Are participant outcomes improving under the NDIS?

NDIS participants are surveyed at their plan review about whether the NDIS has helped them across a range of outcome domains. Responses for most Queensland participants suggest the scheme has led to improvements in their daily lives, relationships and social participation. Improvements in work, learning and housing are less obvious, possibly because fewer participants target these areas as goals, it takes a longer time to show improvements in those areas, or capacity building supports in these areas have been less effective (Figure 6). Queensland responses are generally slightly better than the national responses, although this may reflect the lower level of disability supports that were available in Queensland, compared to some other states, before the introduction of the NDIS.

Figure 6 Participants who responded ‘yes’ to questions on whether the NDIS has helped in these outcome domains



Note: Outcome indicators for participants aged 25 and over that entered the scheme from 1 July 2016 to 30 September 2018 at their most recent review.

Source: NDIA 2020a, pp. 111, 263.

What stakeholders told us

The NDIS is delivering positive outcomes...

Broadly, QDN members report a range of positive experiences in becoming participants in the NDIS, some accessing funded disability supports for the first time in their lives and others reporting improved access to funded disability supports that better meet their level of need ... For some people with disability this will be the first time that they experience choice and control over their service provision. (Queenslanders with Disability Network sub. 28, p. 8)

It showed that there was more of a positive life out there, okay, and I didn't have to sit at home brooding all the time, and it gave me opportunity to just, well, the plan has shown that there is a lifestyle out there that suits me, there is—and going into that lifestyle, I now get up out of my bed instead of laying in my bed brooding all the time, on the negative. (Participant comment)

... but the scheme can be challenging...

For several NDIA participants the lack of understanding of rules and entitlements was exacerbated by a lack of clear reasons as to why requested supports were not granted ... or existing funds reduced ... Not understanding the decisions was for some NDIS participants accompanied by a questioning of whether the NDIA planner adequately understood the individual's disability. (The Hopkins Centre sub. 41, p. 15)

The way the scheme has been rolled out makes an underlying assumption that people with disability and their families automatically assume the required level of skills, knowledge, and capacity to behave as an informed customer once their plan is approved. While this may be the case for some participants ... many participants and their families find this very challenging. (Queenslanders with Disability Network sub. 28, p. 7)

These complexities have had impacts on participants and contributed to difficulties for participants in using NDIS services. The experience in areas throughout Queensland has been that the lack of widely available information has left many participants confused and may instead rely on conflicting accounts about the scheme and inconsistent information. The confusion and the complexity of this process has led some to not pursue this support. (Queensland Alliance for Mental Health sub. 34, p. 9)

Our experience, over more than 100 years working with people with disabilities endorses the need for bespoke planning and eschewing any legislative or regulatory frameworks which could produce cookie-cutter outcomes ... At present, we see too little evidence of a planning process which is respectful of the unique needs of each individual. (Maurice Blackburn Lawyers sub. 31, p. 5)

... especially for some groups

Queenslanders from CALD backgrounds with disability and their families experience additional barriers to accessing important information and services, identifying supports, understanding their rights, exercising choice and control and resolving concerns. (AMPARO Advocacy sub. 40, p. 2)

Availability of services for people with complex disability needs to be addressed as a matter of priority to ensure fundamental human rights are met. (Queensland Advocacy Incorporated sub. 25, p. 10)

Feedback from members further indicated that the NDIS application process was particularly difficult for people in rural, remote and very remote areas ... (Queensland Alliance for Mental Health sub. 34, p. 4)

4 Providers in the NDIS market

Having to adapt to a more competitive, consumer-driven market

To date, over 5,000 registered providers, and an unknown number of unregistered providers, have been active in the Queensland NDIS market. Of registered providers, nearly two-thirds are organisations, with three-quarters being not-for-profit, and the remainder sole traders. There are around 78,000 disability care workers in Queensland, with around half being casual.

The transition from the predictable arrangements of block funding to an uncertain market environment, with direct competition from other providers and a new regulatory regime, has required fundamental changes in the way providers operate.

Major change required in governance and leadership, organisational design, moving from grants to earned income, generating additional capital (where possible), shifts in skill requirements, internal structural change, accounting restructures, systems development, major strategic change, service expansion, developing performance indicators, business development, financial planning, increased legislative and operational compliance, etc. impacted on organisational capacity. (National Disability Services sub. 24, p. 12)

Competitive conditions—where there are many providers and participants, and very few missing support markets—exist in many local government areas, particularly in South East Queensland (aqua shaded area of Figure 7). These areas represent about 70 per cent of the value of the NDIS market in Queensland, as measured by participant expenditure.

However, in some areas, usually rural and remote, there are few providers and support markets may be missing, indicating ‘thin’ markets (red shaded area). These locations make up around 3 per cent of the market by value.

During consultations, stakeholders also identified thin markets for certain specialist therapeutic supports.

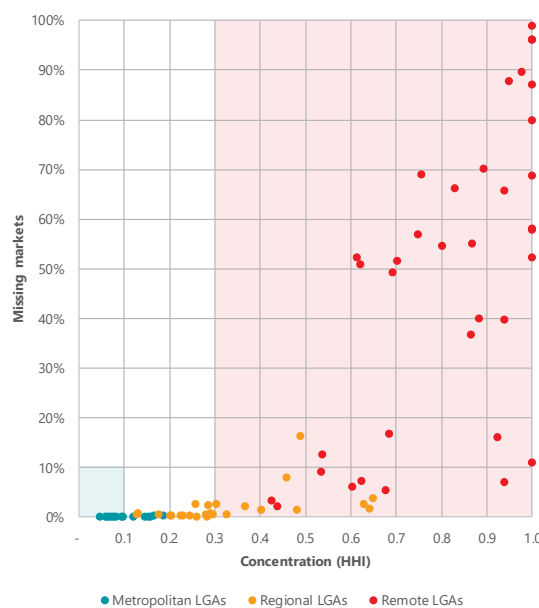
Deficiencies in market coordination

There are large gaps in the information available to providers about participant demand. These gaps increase the risks providers face when considering whether to enter the market and limit provider responses to thin markets.

High search and switching costs can also impede the operation of the market and compromise choice and control. Participants undertake most of the work in finding a provider (bearing the costs of search) but this may not be the most efficient way to organise how participants ‘match’ to a provider.

Support coordinators fill some of these gaps, but stakeholders have raised concerns about how well they do this, suggesting they can lack training and experience, with their selection of supports not always seeming fair and transparent.

Figure 7 Market concentration and missing markets by Queensland LGA



Source: NDIA, March 2020, unpublished; QPC estimates.

Price regulation

Analysis of prices for a number of items indicates that the NDIA's price caps are effectively setting prices for a large proportion of transactions—nearly two-thirds of the value of transactions are within one per cent of the price cap. The National Disability Services (NDS) '2019 State of the Disability Sector Report' survey found that nearly half (48 per cent) of Queensland provider respondents agreed with the statement 'we are worried we won't be able to provide NDIS services at current prices' (the national response was 52 per cent). Twenty-six per cent disagreed.

Price caps may be justified where provider competition is deficient or where participants are vulnerable to exploitation. However, the NDIA's current task of setting around 500 nation-wide support price caps at efficient levels is a near impossible one. Setting inappropriate price caps can affect the sustainability of support provision, create uncertainty that can deter investment and impede the development of new forms of supports.

Quality regulation

Some stakeholders identified that regulatory costs can be significant and disproportionate:

- some small businesses have indicated they have spent up to 60 hours researching and preparing for NDIS registration—a one-off cost of about \$10,000
- the cost of service quality audits (usually required every three years) is a barrier to supplying small markets—even simple verification audits attract fees of around \$1,000. This can be particularly so for specialised allied health professionals who require a certification audit (and a mid-term audit) but serve few participants—one example involved audit quotes of between \$10,000–\$12,000 for a service to less than 20 participants.

The NDS '2019 State of the Disability Sector Report' survey found that 58 per cent of Queensland provider respondents agreed that 'there are too many unnecessary rules and regulations my organisation has to follow' (the national response was also 58 per cent). Eleven per cent disagreed.

Unregistered providers face less quality and price regulation than registered providers. The Commission heard that some providers are choosing to operate as unregistered providers to avoid the compliance costs associated with NDIS registration. Being unregistered means they cannot provide supports to agency-managed participants, but it also leaves them outside much of the quality oversight provided by the QSC.

While there can be significant benefits from service quality regulation, these need to be balanced against:

- the costs incurred and the risk of unintended consequences if, for example, smaller providers choose not to enter the NDIS market or to operate as registered providers
- other options that could provide consumer protection at a lower cost.

Workforce issues

The NDIS market has a large impact on the state's disability workforce and the availability of appropriate staff is constraining delivery of services in some areas and for some supports. The number of disability sector workers meeting state screening requirements has doubled since 2015, but workforce shortages are pervasive and persistent in the disability services sector. The scheme's emphasis on participant choice and control has affected the operations of providers, the nature of work and the required characteristics of the disability workforce. A stronger client focus has been a positive development, but there has also been a need for a more flexible workforce—with an NDS survey indicating permanent full-time employment has declined from 27 per cent to 14 per cent of total employment between 2015 and 2019.

We need workers willing to do shorter shifts and/or multiple participants in a day. They need to work across regions or arrangements in most cases and be flexible with their rosters, as things change more regularly ... The level of skill needed has increased as there is less ability to train staff on the job, as there is no funding for that ... The market for obtaining workers is more competitive and workers are more transient. Turnover has increased significantly. (Rural Lifestyle Options Australia sub. 15 p. 6)

What stakeholders told us

Providers have faced major challenges

The general feedback from our participants and staff around interactions with planners was extremely negative. The reassurance and guidance expected by our organisation materialised as quite the opposite. Planners were ill-informed and ignorant to the intricacies around transport support, resulting in a sense of hopelessness for participants and frustration for organisations. Without the presence of 'local' LACs, we faced an administrative burden that was never budgeted for, assisting our participants to prepare for assessment. (Transitcare sub. 17, p. 1)

The common view was that organisational principles and models of working had not changed, but due to the new NDIS environment, adjustments and changes have been necessary to become more financially viable, including: the type and number of services provided; the type of disability or 'customer' they work with; the type of work they do and/or roles catering to the NDIS... (The Hopkins Centre, sub. 41, p. 7)

Thin markets are an issue in some areas

Some people report very limited options in their communities for service provision and this means that they are not in a position to be able to readily change from one service provider to another if they are unsatisfied with their current service provision. In remote, regional and rural areas with limited service provision, members are also concerned that if the current service provider finds this area financially unviable and stops providing services, people will have no other service provision options. (Queenslanders with Disability Network, sub. 28, p. 16)

Regulation can be onerous for some...

ESSA members report that NDIS registration is a costly and onerous process particularly for small businesses and providers in rural and remote communities. (Exercise & Sports Science Australia sub. 18, p. 10)

... and price regulation is an issue for many...

The most important factors that influence HELP's decision to supply in the NDIS market are pricing, customer numbers and staffing availability. (HELP Enterprises sub. 10, p. 1)

Many respondents to IOPO's industry survey report the NDIS's rigid approach to pricing as a significant challenge. They indicate that NDIS pricing does not reflect industry pricing and so often provides a disincentive for professional organisers to work with participants. This, in turn, means that participants miss out on valuable services. 57% of survey respondents indicated they had taken a pay cut, or worked hours for free, to work with participants ... (The Institute of Professional Organisers sub. 9, p. 5)

In simple terms the NDIA price limit approach benefits and incentivises Providers to aim for lowest cost. There is a very significant risk that this comes at the cost of client outcomes, quality and safety. (Stride sub. 23, p. 5)

Leap In! supports the NDIA's approach to setting price controls to help shape the market and ensure stewardship; however the mechanism for review of these controls is flawed and places some key support functions, including plan management at risk. (Leap In! sub. 21, p. 7)

... as are workforce issues

Some clients have been on my waiting list and waited to see me for 36 weeks so far...there are also many people who did not find an alternative OT in that time and waited the full length of time to see me. I know many other mental health OTs who are not taking on new referrals. I have taken my name off 'Find an OT' and I know quite a few other mental health OTs who have done this in order to reduce the number of enquiries. (Occupational Therapy Australia sub. 5, p. 3)

5 How is the NDIS market performing?

The NDIS has improved the lives of many Queenslanders with a disability compared with previous disability support arrangements. To an extent, this improvement is to be expected since funding for disability services has effectively increased by around 150 per cent, allowing Queenslanders with a disability access to supports for the first time. In Queensland's case, around half of participants were not receiving disability supports from the state government prior to entering the NDIS.

However, the replacement of previous government-directed, block funded service arrangements with a market-based approach that allows participants to be consumers in a disability support market has also given many participants greater choice and control over the services they receive.

There are some positive signs the NDIS has improved social participation, relationships and daily living, but less evidence of improvement in key areas including participant employment and learning.

While the NDIS is performing well much of the time for many Queensland participants, experience of the scheme is uneven. Up to a quarter of survey respondents do not indicate positive experiences at each stage of the scheme (access, plan development and plan reviews). Consultation has confirmed the findings of other inquiries, which report confusion and, in some cases, distress suffered by participants dealing with the complexities of the system and its processes.

Some groups face additional barriers to achieving the full benefits of the scheme—Aboriginal and Torres Strait Islander people, and people from CALD backgrounds, from rural and remote areas, and with complex and/or psychosocial disabilities.

Structural and regulatory impediments are lowering market performance. On the demand side, many participants struggle with the complexity of the system and lack of information on providers and provider quality. On the supply side, regulation of price caps and limited availability of market information is hindering supply side responses to demand and competition.

Addressing these issues on both the demand and supply sides of the NDIS market will increase the effectiveness and efficiency of the market, and, ultimately, lead to improved outcomes for participants.

Underlying these performance issues is the requirement to achieve the legislated objectives of the scheme, replicate the incentives and disciplines that exist in a normal market, and maintain financial sustainability. Balancing so many considerations at once has led to the introduction of a plethora of rules and regulations, inhibited the development of the market, and given rise to a number of perverse incentives and unintended consequences.

Table 3 provides an assessment of the NDIS market against a set of effectiveness and efficiency indicators.

Table 3 Assessment of the current performance of the NDIS market in Queensland

Indicator	Type	Assessment	
Are eligible people able to successfully access the scheme?	Effectiveness /efficiency	✓ but less so for some	Transition slower than expected. As at September 2020, 90 per cent of those expected to be in the scheme in Queensland by mid-2019 have been transitioned. Data and stakeholder feedback indicate that some cohorts face additional barriers in accessing the NDIS.
Are reasonable and necessary supports provided to participants?	Effectiveness	✓ but less so for some	As expected with a large increase in funding, many participants are receiving more supports under the NDIS than previously. However, with 41 per cent of participants in Queensland utilising less than half of their plan budgets, some are not accessing the level of supports their plans suggest they need.
Do participants exercise choice and control?	Effectiveness /efficiency	✓✓ but less so for some	Participants have more choice and control than prior to the NDIS, with three-quarters of participants reporting the NDIS is providing them with more choice and control over their lives. However, difficulties in navigating the scheme and using plans, and shortages in support availability diminish choice and control for some.
Are participants more independent, engaged socially, economically?	Effectiveness	?	There is evidence of improved outcomes in social participation, relationships and daily living. There is less evidence of significant improvements in employment and learning.
Do support prices reflect efficient costs?	Efficiency	✘	While price caps are intended to reflect efficient prices, centrally setting 500 prices is an enormous task and appears to be leading to supply distortions, investment uncertainty and stifling of innovation.
Are participants and providers well informed?	Efficiency	✘	While some supports exist to assist participants' decision-making, participants often have limited information on provider quality and insufficient decision-making supports to make well informed consumer decisions. Deficiencies in market coordination mechanisms can limit discovery of market opportunities.
Does the NDIS provide the right incentives to providers and participants?	Efficiency	✘	The design of the NDIS seeks to replicate the incentives and disciplines that exist in a normal market, while achieving the broader objectives of the scheme and working within financial constraints. The use of rules and regulations has introduced market elements, but, in balancing a number of considerations, has also created some perverse incentives (e.g. 'use or lose it' regarding plan budgets) and led to unintended consequences (e.g. high scheme complexity).
Does effective competition exist between providers?	Efficiency	—	Large numbers of participants and providers indicate potential for effective competition in around 70 per cent of the market, mainly in South East Queensland, but price caps contribute to the stifling of competition. The potential for competition is less in some thin markets, while some areas may not ever have viable markets.
Is there innovation in support provision?	Efficiency	?	The level of innovation has not been able to be assessed. However, discussions with stakeholders suggest that while there are examples of innovation, the heavily regulated scheme limits supply and demand side innovation. For example, the definition and structure of supports in the price guide/support catalogue restricts experimentation and provision of 'new' supports.

Note: ✓ satisfactory; ✓✓ good; ✓✓✓ very good; — neutral; ✘ deficient; ? insufficient information.

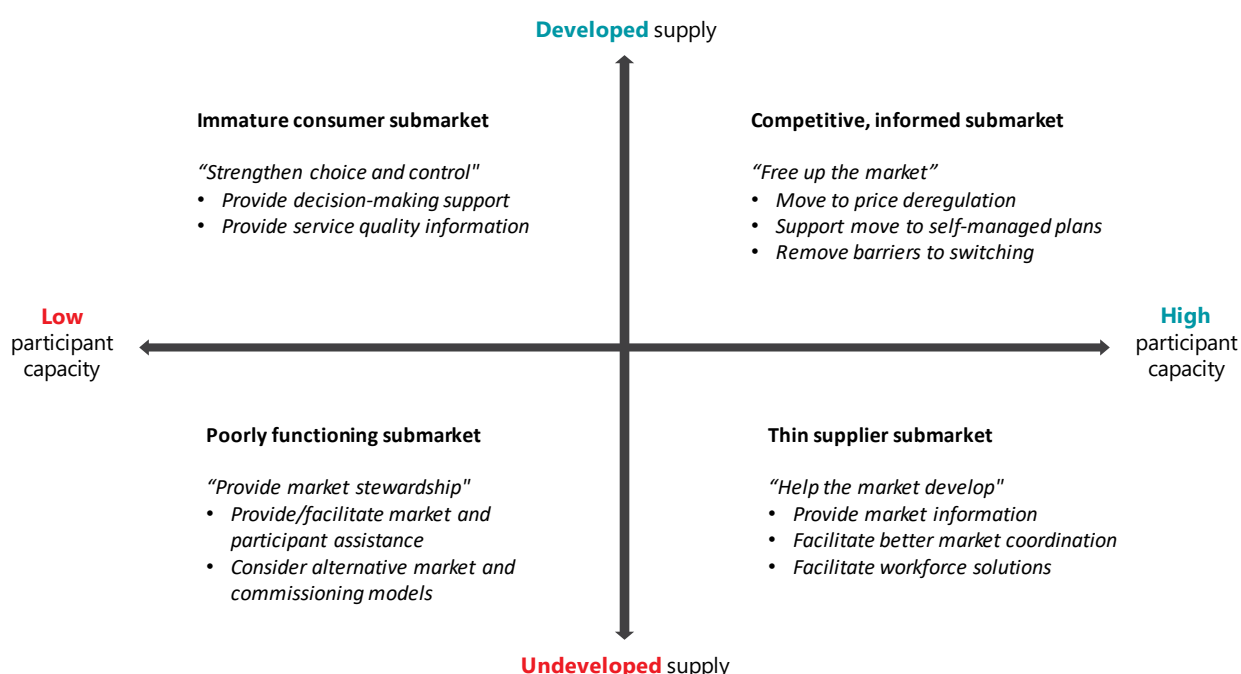
6 A plan for NDIS market reform

Shifting the focus from transitioning participants to improving the performance of NDIS markets

Since the NDIS market commenced in Queensland in 2016, the focus has been transitioning eligible people with a disability into the scheme—close to 79,000 Queenslanders are now in the scheme.

While the task of transitioning people eligible for the scheme will need to continue, the focus should now shift to making the NDIS market more effective and efficient through stronger market stewardship—that is, providing decision-making supports and information, setting appropriate regulations, consulting widely and removing restrictions to allow the market to be more effective and efficient (Figure 8).

Figure 8 A plan for NDIS market reform



Where submarkets are mature (top right), unnecessary restrictions on their operation should be lifted. This means:

- participants who have the capacity to exercise choice and control should be encouraged to shift to self-managed plans that give them more flexibility in their choices as consumers
- providers should be placed on a pathway of price deregulation, to encourage greater competition and innovation.

Where submarkets have the potential to work better but currently lack the capacity to do so, the NDIA, the sector and governments should work to build that capacity. This means:

- for participants, making the system less complex, providing more and better decision-making supports, and building participant capacity to exercise greater choice and control (top left)
- for providers, making market information more available, improving market coordination and addressing workforce issues (bottom right).

Where the submarket is functioning poorly and competitive conditions do not exist (bottom left):

- provide market stewardship, as outlined above, if the market has the potential for development
- consider alternative market and commissioning models, if the market does not.

Where the market is not working and lacks the capacity to do so, this means looking for more innovative ways of providing supports that preferably still retain elements of a market and provide participants with some level of choice and control.

Table 4 lays out the proposed reform plan, with section 7 providing the detail.

Table 4 Market reform approach

The NDIS market vision		
<p>The vision of the NDIS is to harness markets to provide people with a disability with greater choice and control over the supports they receive, in order to achieve better outcomes. In well-functioning competitive markets, informed customers signal their needs through what they are willing to pay, and suppliers compete to meet those needs to the extent it is profitable for them to do so, and in the least costly way. When working well, competitive markets are economically efficient in the sense that they supply the goods and services that consumers are willing to pay for at least cost, and allocate resources to derive the most benefit from them.</p>		
Where the NDIS market is faltering	Why this is a market problem	Policy response
Some cohorts are finding it difficult to access the scheme and exercise appropriate choice and control in the NDIS.	If participants are unable to signal their needs, the market is unable to respond to them and allocate resources efficiently and effectively.	Provide support to vulnerable participants to exercise appropriate choice and control (to the extent that benefits exceed costs).
Providers and participants sometimes have too little information to make good commercial and consumer decisions.	Poor information can deter provider entry or expansion, or lead to poor consumer decisions, resulting in resource misallocation and poorer outcomes.	Provide additional information to the market on provider quality and participant demand, to the extent that it does not impinge on participants' rights to privacy.
Price caps are not necessarily representative of efficient costs.	If price caps do not reflect efficient costs, then they are likely to result in inefficient supply decisions, misallocation of resources and poorer outcomes.	Develop a pathway to price deregulation that applies appropriate consumer protection. Where price capping is maintained, implement a more rigorous, consistent and transparent process for price regulation.
High policy and regulatory risk can create high levels of uncertainty for both providers and participants.	Uncertainty in policy and regulatory settings can deter investment and innovation, and lead to excessively risk averse decision-making.	Consult stakeholders in transparent processes. Assure the sector on how NDIS agencies will engage with the sector. Allow suitable lead times before changes are implemented.
Participants sometimes struggle to locate providers, and vice versa, and coordinate local solutions.	Matching demand and supply is an important requirement for the efficient and effective operation of a market.	Facilitate market coordination, by providing better information or support coordination, or facilitate development of eMarketplaces.
Some participants lack choice of disability supports in certain NDIS submarkets.	Participants may not receive the level of supports required to achieve better outcomes.	Support development of the market or, if the NDIS market approach is not viable, apply the most effective and efficient alternative service delivery model that supports participant choice.
The benefits of reform		
Better participant outcomes	Participants will benefit if the NDIS market can enable them to better identify and source supports to meet their needs.	
Greater financial sustainability	Financial sustainability of the scheme will improve if the NDIS market operates competitively to keep prices at efficient cost levels and invests in supports that provide the most benefit.	
Better community outcomes	The community will benefit if the NDIS market supports people with a disability and their carers in achieving better outcomes that allow them to participate in and contribute to the community and the economy.	

7 The reforms in detail

Scheme access

Building better pathways to the NDIS

When people eligible for the NDIS access the scheme, there are benefits for both the individual and the community. Participants experience increased wellbeing by accessing supports that assist them in their daily living and to achieve their goals and aspirations. There are spillover benefits to the broader community when people with a disability participate in social activities and the economy. There are also potential savings from less use of government services, such as hospitals and the justice system, and reduced income support.

A balance must be struck between ready access and effective gatekeeping, given that successful applicants access potentially large streams of taxpayer-funded benefits (currently averaging \$56,600 annually for participants in Queensland). The eligibility criteria for the NDIS establishes whose participation in the scheme can be justified by the benefits that will accrue to the person and the community. Ineffective gatekeeping that too readily provides access for people who are otherwise not eligible will result in high costs for too little benefit. Conversely, excessive barriers to access the scheme may keep people out for whom the benefits of the scheme are justified, and make the scheme inequitable.

Survey results indicate that participants find their experience in accessing the scheme as less satisfactory than pre-planning, planning and plan review. Stakeholders frequently mentioned the complexity of the access process, the existence of a distinct and difficult to understand NDIS 'language', and the delays that can result from a simple mistake when filling in a form.

As a carer who did all the research, collection and collating of information to make an application for access I would like to say that the process is complicated, difficult to follow, excessively time-consuming and emotionally exhausting. Just learning the "NDIS" jargon is a difficult process. After waiting for a year without a response to our first application I received a short incomprehensible letter of failure to meet access requirements. (Carer's comment to inquiry)

Reform options to address the problems should:

- reduce the unnecessary barriers that prevent eligible people from accessing the scheme
- focus on reaching cohorts underrepresented in the NDIS
- leverage state government institutions and systems, such as hospitals, schools and the criminal justice system.

Supporting participants through the access process

The NDIS access process should be simplified and streamlined to the extent it is possible to do so without compromising the necessary and important gatekeeping role of the access process. Where simplification is not possible, better explanatory material and guidance, including through local area coordinators and advocacy services, should be provided to facilitate a person's progress through the application process.

The NDIA is rolling out independent functional capacity assessments nationally in the access and planning stages, aimed at delivering a more reliable, consistent and transparent approach to NDIS access, planning and plan review decisions. To ensure that they are introduced in the best possible way, there needs to be ongoing evaluation of the impacts of independent assessments, conducted independently of both the NDIA and the organisations selected to implement them.

Focus on underrepresented cohorts

Cohorts who appear to be underrepresented in the scheme need to be engaged more effectively, including Queenslanders with a disability who:

- have a CALD background— currently represent 6 per cent of NDIS participants but this rate should be closer to 13 per cent
- live in rural or remote areas—17 per cent of NDIS participants live in rural and remote areas, below the expected 23 per cent
- are Aboriginal and Torres Strait Islander people—many stakeholders told the Commission that Indigenous people faced additional barriers in accessing the scheme
- have complex, usually psychosocial, disabilities—people with psychosocial disability are successful with only 67 per cent of their access requests, compared to the scheme average of 83 per cent.

Governments currently fund many outreach programs to reduce barriers for these and other groups. While such programs have had some demonstrable success, they are generally not rigorously evaluated, making it difficult to determine whether they represent value for money.

The Australian Government recently supported the recommendation of the 2019 *Review of the NDIS Act* (the Tune Review) that the NDIA develop a comprehensive national outreach strategy for engaging with people with a disability who are unaware of, or are reluctant to seek support from, the NDIS.

The development of the outreach strategy provides an opportunity for the Queensland Government to work with the Australian Government and the NDIA to identify effective and efficient ways to improve the scheme's accessibility in Queensland. The Queensland Government could support the outreach strategy by:

- evaluating the effectiveness of existing programs, and any overlaps or gaps between them
- reviewing information about the population of potential participants in the scheme in Queensland
- identifying barriers to potential participants accessing the scheme and options for addressing them
- assessing which programs should be retained and refined
- considering the roles of the Queensland Government and the NDIA in delivering outreach programs.

Leverage existing institutions and systems

State government institutions such as hospitals, schools, and the criminal justice and child protection systems can be used to identify people with a disability who are eligible for the NDIS. For example:

- two Queensland Corrective Services programs over the last two years have identified more than 1,700 people with a disability in custody as potentially eligible for the NDIS, with more than 300 granted access
- an Education Queensland access clinic trial at the Lee Street Special School showed positive results before COVID-19 concerns led to the trial being cut short.

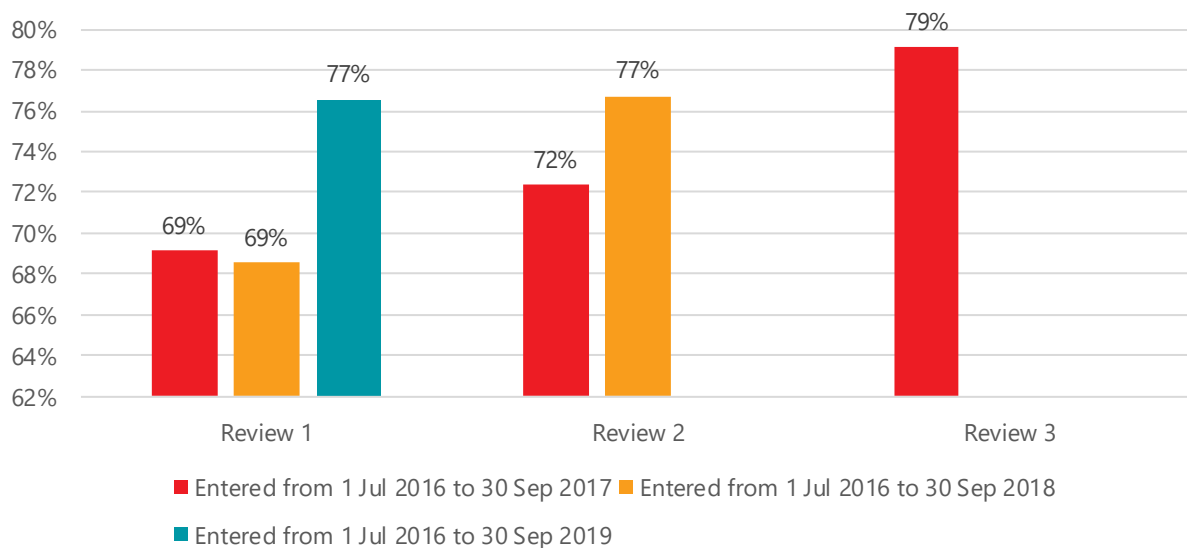
Choice and control

Improving choice and control

Participants exercise choice and control in the development and implementation of their plans. Choice and control is a legislated objective of the NDIS to place the participant at the centre of the scheme. This is a desirable outcome in itself—it empowers a vulnerable group and builds self-confidence in its constituents. It is also an important feature of a well-functioning market as it allows consumer preferences to drive the allocation of resources across the provision of supports, leading to the delivery of overall better outcomes for the consumer, in this case, people with a disability.

The NDIS has delivered greater choice and control for many participants, but for at least a quarter of participants there is room for improvement (Figure 9).

Figure 9 Participants who answered yes to 'Has the NDIS helped you have more choices and more control over your life?', Queensland, 30 September 2020 (%)



Source: NDIA 2020a, pp. 262–266; QPC estimates.

Consultation suggests changes could be introduced that would assist participants to exercise their choice and control more effectively. This could include providing more assistance to participants to engage productively in planning and be more effective in the use of their plans, supporting self-management of plans, and encouraging capacity building.

Increase participant and carer capacity to engage in planning and plan use

Many stakeholders told the inquiry that the planning process is complex and difficult to navigate. Previous inquiries and reviews have recognised a lack of clear, consistent and accessible information about the planning process as a problem. Participants cannot productively engage in the planning process if they do not understand it. This information should be developed and disseminated to all participants.

In particular, clarifying the key concepts of 'reasonable and necessary' as it applies to disability supports, and 'choice and control' as it applies to the participants' role in the planning process, will assist understanding of the planning process, reduce inconsistencies in NDIA decision-making and reduce inequity.

[A]s a carer, with two young people to support, the processes involved in NDIS are exhausting and carer capacity to engage over time with their processes have not been considered with multiple participants and over multiple years of the program. I am fairly much exhausted and capacity is greatly wasted with the hours of meetings, signing and reading service agreements ... I would like to know where to send my invoice for the hours spent since its inception and some understanding that if our role was costed out using current price guide, would be in excess of \$20,000 for four weeks, or \$240,000 per annum. (Carer's comment to inquiry)

Stakeholders told the inquiry that participants with system navigation and decision-making supports—such as families, carers and advocates or the ability to self-advocate—do much better in the planning process than participants without those supports.

A participant's success in the NDIS should not depend on whether they have a supportive family or carer, or rely on their own capacity. The NDIS should provide supports where necessary, be it through:

- planners with expertise in the disability of the participant
- competent plan managers and support coordinators who can help identify suitable supports and providers
- advocacy services to assist participants navigate NDIS processes and decision appeal processes.

Participants need robust information on the range and quality of providers upon which to base their decisions as consumers of disability supports. Moreover, given the often personal nature of the supports, it is important that the participant can identify suitable providers in whom they can place their trust. Currently there is little of this information available. The NDIA, with the QSC, has a market stewardship role in making such information available to participants.

To maximise its benefits, the NDIS may need to make a greater investment in providing supports to assist participants through the scheme, particularly in the early years of a participant's involvement in the scheme. As a participant becomes more familiar with the system over time, funding for these supports can be redirected.

Support self-management of plans

The ability of a participant to self-manage their plan provides them with a wider span of choice and control; for example, through being able to use both registered and unregistered providers, and not being constrained by price caps. It should therefore be an aspiration of the NDIS to encourage and support participants to self-manage, while balancing the risks that come with greater self-management.

Given these risks, it is appropriate that the NDIA undertakes a risk assessment of a participant's capacity to self-manage before allowing a participant to do so. However, risk assessments should also be used to identify what the participant requires to allow them to move to greater self-management. This may include capacity building, training and mentoring.

Build capacity in participants to increase independence and choice and control

A principle of the NDIS is to take a lifetime view of participants' needs and seek early investment opportunities to maximise independence and social and economic participation, and reduce long-term support requirements.

The planning process should assist participants to identify opportunities to develop their capabilities to increase independence. To do this, planners could adopt a 'coaching role' to bring the best out in participants. However, to perform that role effectively and in the participants' interest, planners will need to be well-trained, well-informed and have a good understanding of the participant's disability.

Conversely, NDIS processes should avoid producing unintended consequences that lead to the reinforcement of negative stereotypes and self-images by, for example, creating incentives for participants and their advocates to overstate the participant's disability and understate their capacities in order to procure or retain supports.

Market stewardship

Supporting the development of the NDIS market

The development of a new market has been the key mechanism for enabling participants to exercise choice and control over supports in the NDIS. Segments of the NDIS market remain at an early stage of development. With many providers entering the market and others more familiar with block funding as a source of revenue, the market will need assistance to reach the maturity required to effectively and efficiently provide supports to participants.

A high level of uncertainty affects provider and participant planning. This is driven by a combination of factors, some inherent in operating in a market where the need to respond to consumer-driven demand in a competitive environment can require constant adaptation, but others are due to the policy and regulatory risks arising from a highly managed market largely regulated by legislation, rules and operational guidelines. Uncertainty arising from market forces can work to the benefit of the consumer; it is the latter set of policy and regulatory risks the government should focus on managing.

Reducing this regulatory and policy uncertainty and making more information available to the market will create a more predictable operating environment. An important goal of a market stewardship approach is to improve the functioning of the NDIS market in these ways to encourage investment and innovation.

Provide market information

Well-functioning markets require high quality and timely information. Without it, providers find it difficult to make good planning and investment decisions, and participants will be unable to make informed decisions on which providers will best supply them with supports, to the detriment of the NDIS market and participant outcomes.

Stakeholders have expressed support for the NDIA's recently introduced NDIS Demand Map, but indicated that it does not provide enough detail, for example on the range and type of participants and plans in an area. There is a strong case to increase data and information available to providers and participants. However, the preparation and publication of such data is not costless. To reduce the resource costs to publicly release such data, the NDIA could adopt the Australian Bureau of Statistics approach of publicly providing basic unit record level data which have been confidentialised so individual participants and providers cannot be identified.

There is also insufficient information available for participants to assess the quality of supports and alternative providers prior to actually purchasing and experiencing the supports first hand. Development of comparator websites and consumer rating applications which are common in many other consumer markets, or limited access to complaints data, would assist participants in making consumer decisions.

Support market coordination mechanisms

Coordination mechanisms that link the demand (participant) and supply (provider) sides of the NDIS market together are critical for its effective and efficient functioning.

The NDIS market may provide an opportunity to develop digital marketplaces that match participant demand with provider supply. To a degree, this is already happening and should be further encouraged by the NDIA developing an Application Programming Interface (API) that allows participants and providers to share their NDIS information and for participants to receive provider proposals in a safe way.

Many participants need additional help to find suitable providers. Support coordinators can provide this assistance—the Commission's analysis indicates that the purchase of support coordination supports to navigate the market makes a participant less likely to have low plan budget utilisation. While the NDIA funds support

coordination for some participants, the NDIA should recognise the importance of the support coordinator role for the development and functioning of the overall NDIS market.

The roles of intermediaries such as planners, plan managers, support coordinators, local area coordinators and advocates seem to be evolving with greater overlap developing across the functions. As this is being driven by participant and provider needs, the NDIA should review its rules and regulations to ensure this role evolution is not being unnecessarily impeded.

Allow longer duration service arrangements

When a provider is considering entering a new market, lack of information on potential demand increases the risks of investment. The short participant plan/review cycle also creates risk; for example, plan reviews can curtail activities leaving providers with ongoing costs (for example, leases) and potentially stranded investments.

The average duration of NDIS plans is less than a year, which may not allow a long enough service period to attract a provider to a new market (plans may lengthen as the NDIA move towards plan lengths based on life stages, like starting school or moving out of home).

For markets that are expected to have persistent shortfalls in supply, participants should be able to offer extended service agreements to potential providers, with plan length and funding to support the extended agreements. This would be a participant-driven approach to addressing the problem of under-supply.

Develop a Provider Guarantee

Survey data for the NDS 2019 'State of the Disability Sector Report' indicated, for Queensland provider respondents, that:

- 19 per cent agreed that 'the NDIA is working well with providers to implement the NDIS'; 59 per cent disagreed (national: 56 per cent)
- 17 per cent agreed that 'the NDIA has a high level of respect for current disability service providers'; 59 per cent disagreed (national: 52 per cent).

Consultation has also found significant regulatory and policy risks facing providers, which weigh on supply, investment and employment decisions.

Assuring providers that NDIS agencies will consider their requirements as suppliers in the NDIS market when making or implementing policy will help address policy uncertainty and create a more positive environment for investment and innovation.

At the recommendation of the recent Tune Review, the NDIA has introduced a 'Participant Service Guarantee' to guide its engagement with NDIS participants. Similarly, the NDIA and QSC should, in consultation with the sector, develop a 'Provider Guarantee' based on principles to which the NDIA and QSC will commit themselves in their engagement with the sector. Such a guarantee will help to reassure and strengthen confidence in the policy and regulatory framework. The guarantee would acknowledge the important role providers play in the NDIS market in delivering supports to meet objectives of the scheme.

The Provider Guarantee

The Provider Guarantee could be based around a set of principles to be adopted by NDIS agencies, such as:

- **Transparent:** How decisions affecting providers are made should be clearly explained.
- **Responsive:** Provider concerns should be acknowledged, considered and responded to as soon as possible.
- **Respectful:** Providers and the important role that providers play in the NDIS should be respected.
- **Consultative:** Wherever possible, providers should be consulted on decisions that affect them.
- **Proportionate:** Policy interventions should address persistent problems that otherwise will not be addressed, and be proportional to the problem.
- **Predictable:** Decision-making processes should promote a predictable policy and regulatory environment to assist providers to make informed commercial decisions.

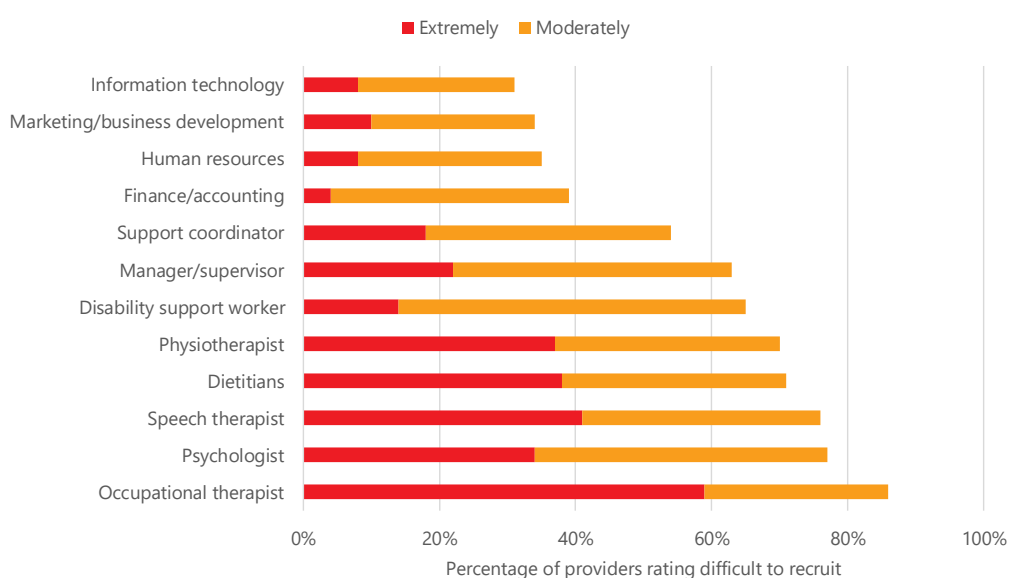
Australian governments have regulatory review processes to ensure the benefits of regulation outweigh the costs. Similarly, as part of the Provider Guarantee, the NDIA and the QSC should institute processes to regularly review its rules and regulations to ensure that they produce net benefits. A timetable of reviews should be publicly released, with the review process being transparent and involving consultation with the sector.

The Commission is seeking views as to what principles and features should constitute the Provider Guarantee and its contribution to addressing provider uncertainty and policy and regulatory risk.

Address workforce issues

Stakeholders have told the inquiry that workforce issues are a major constraint to the development of the sector, with difficulty in attracting and retaining allied health professionals being among the most significant (Figure 10).

Figure 10 Positions difficult to recruit for, Queensland providers, 2018–19



Source: NDS, unpublished.

While the sector itself has the main responsibility for the development of the disability workforce, several measures should be undertaken by NDIS agencies and the Queensland Government to help alleviate workforce shortages:

- To reduce the regulatory barriers to entry of skilled workers, the NDIA and QSC should work closely with other regulatory agencies such as the Aged Care Quality and Safety Commission and the Australian Commission on Safety and Quality in Health Care to ensure streamlining of quality standards and the introduction of mutual recognition across relevant sectors.
- While Allied Health Assistants (AHAs) have become a common feature of the workforce in the hospital and aged care settings, their use by NDIS providers is far less common. The Queensland Government should fund a pilot for AHA roles to better understand the role in the context of disability services, particularly in relation to delegation and supervision and risk management. The pilot should be led and coordinated by industry.
- Given current labour market conditions, particularly in the retail sector, and the ongoing need for support workers (and potentially therapy assistants) in the NDIS, the Queensland Government should temporarily relax the eligibility criteria on the Certificate 3 Guarantee to allow for funding assistance for disability sector related CERT IIIs.

Price regulation

Setting a path to deregulation

Market prices play a fundamental role in the efficient operation and coordination of the market. Distorted prices will send the wrong signals to consumers and suppliers, likely resulting in loss of allocative efficiency.

Poorly designed price regulation can:

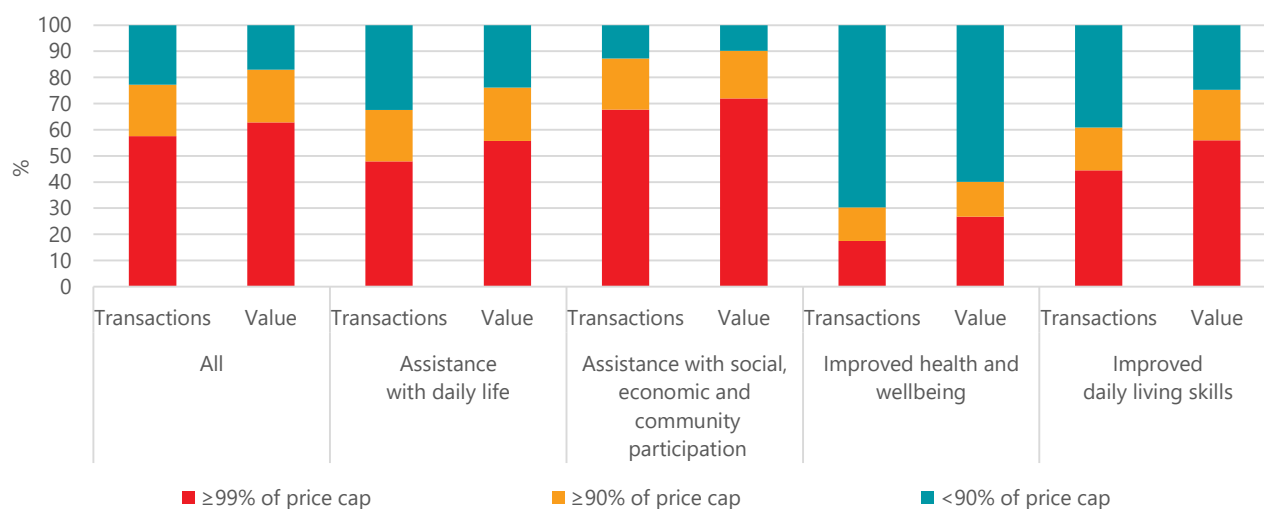
- create a barrier to entry
- contribute to the creation of thin markets
- exacerbate workforce shortages
- reduce price competition
- inhibit innovation.

However, in the absence of price regulation in situations where the participant has few supply options, there is potential for providers to charge monopoly prices.

The problem of setting 'efficient' prices

More than three-quarters of the transactions of agency and plan-managed plans, and more than 80 per cent of the market value of transactions, are within 10 per cent of the price caps, although this can vary across the support types (Figure 11).

Figure 11 Distribution of market value versus proximity to price caps



Source: NDIA, March 2020, unpublished; QPC estimates.

Many providers told the inquiry at least some of the price caps set by the NDIA for supports are making their operations difficult to sustain. The truth of these claims is difficult for the Commission to verify. However, the task faced by the NDIA to set nearly 500 price caps to reflect efficient prices for support items is enormous.

A well functioning competitive market can usually produce efficient prices through the combination of the individual decisions of profit-seeking suppliers to provide goods and services at a certain price and the decisions of well-informed consumers to pay that price.

For a centralised agency to attempt to adopt the role of the market by accurately setting efficient prices for a broad set of different supports in a wide range of circumstances, in an environment of constant change in a market that is still maturing, is not only difficult but almost certainly unachievable.

A pathway to price deregulation

While the NDIA has a pricing strategy that leads to the phasing out of price cap settings when price outcomes are below the caps, there has been little movement to deregulate prices over time. This may be because, in practice, the test for deregulation requires interpretation, and the need to consider the scheme's financial sustainability may be resulting in a conservative approach to price deregulation.

Instead, a pathway should be developed to deregulate prices in those submarkets where competitive conditions exist. The Commission's analysis suggests competitive conditions exist in about 70 per cent of the NDIS market in Queensland by value. Deregulation should be progressive, with a less restrictive price information/monitoring regime as an interim step to full price deregulation.

The commencement of the rollback of price cap regulation should commence no later than the end of 2022–23 for the majority of Queensland participants. Establishing a target timeframe will assist in providing greater certainty for service delivery and investment planning.

Price deregulation for participants capable of self-management

Participants on self-managed plans are generally not constrained by NDIA regulated price caps, and therefore have greater flexibility to obtain the supports they need. The NDIA considers that participants on self-managed plans have the capability to effectively negotiate prices with providers.

The NDIA should take a similar risk management approach in assessing whether participants on plan-managed plans possess a similar capability. Thus, the ability to negotiate a price above the price cap could be extended to those participants on plan-managed plans whom the NDIA assesses as being capable of self-management, or capable of self-management with the provision of additional supports.

Transparent price regulation

While prices remain regulated, the NDIA should seek to increase confidence of the sector in the pricing determination process. The NDIA could build on the annual price review process it already has in place by appointing an NDIS Pricing Commissioner, with a direct reporting line to the NDIA Board, to:

- chair the independent Pricing Reference Group (which currently reports to the NDIA CEO)
- provide advice on pricing methodologies and parameters
- ensure that the QSC has significant input into the annual pricing review process.

While pricing decisions would remain with the NDIA Board, the appointment of an NDIS Pricing Commissioner would give confidence to the sector that its views on pricing cap decisions are being heard and communicated directly to the Board.

Employment outcomes

Assisting participants into work

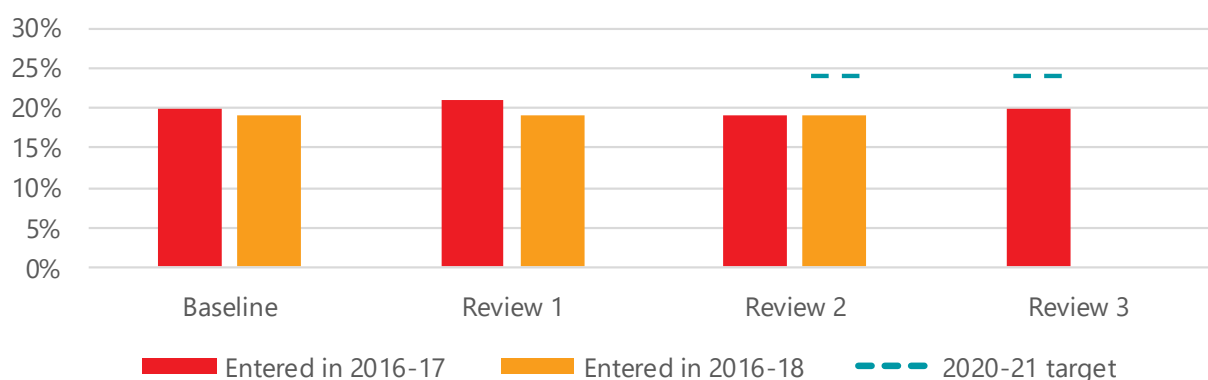
One of the legislated objectives of the NDIS is to support the economic participation of people with a disability. Just as employment has benefits for many people, so it has for people with a disability. Employment can lead to:

- positive financial and wellbeing outcomes, including greater social independence and a reduction in poverty
- greater social inclusion for, and reduction in stereotypes of, people with a disability, including feeling valued, useful and part of the community
- improved health (including mental health), and hastened personal and clinical recovery outcomes
- an opportunity for family members and carers to return to employment
- a potential reduction in both NDIS and government supports and reliance on income support payments
- higher tax contributions and economic output.

Although there are many benefits of employment, there has been little sign of improvement in the employment of people with a disability in Queensland over recent years. In Queensland, 9.5 per cent of people reporting a disability were unemployed in 2018, compared to 5.1 per cent of people without a disability—a gap of 4.4 percentage points. The gap has not declined over time, with the gap at 3.7 percentage points in 2012. Nationally, the gap in employment outcomes in 2018 was 5.7 percentage points (higher than in Queensland), compared to 4.5 percentage points in 2012.

Depending on their age and when they entered the scheme, no more than 21 per cent of Queensland respondents to NDIA surveys have reported, at their most recent survey, that the NDIS has helped them find a job that is right for them. This low rate may partly reflect the relatively low proportion of plans with an employment goal. Around 20 per cent of Queensland participants at their most recent review have reported they are in paid employment, below the NDIA’s target of 24 per cent (Figure 12). Given that most Queenslanders have entered the scheme in the last two years, it may be too early to see capacity being built sufficiently to generate significant improvement in employment outcomes.

Figure 12 Participants aged 15 and over in paid work, Queensland, 30 September 2020 (%)



Note: The target of 24 per cent of participants in paid work applies to 2019–20 and 2020–21. The target is relevant for a participant’s most recent review.

Source: NDIA 2020a, p. 269.

Barriers to employment of people with a disability include:

- Low participant confidence and aspirations—participants may have low aspirations or not be confident in securing appropriate employment resulting in them not seeking employment or opportunities to build capacity to enter the workforce.
- Lack of information—participants and employers need better information—for participants, on which employment placement provider to engage; for employers, on the capacities and requirements of applicants with a disability, to build meaningful employment opportunities.
- Slow processes—participants face a slow bureaucratic process when trying to enter the workforce—access to NDIS employment supports can be delayed.

Improve information for employers and participants

Better information addressing employer attitudes and concerns about hiring people with a disability would help employers to develop appropriate job opportunities and improve employment outcomes. Employers need accurate information about people with a disability and their requirements, and their capacity to make a valuable contribution to their organisations. Yet myths persist. The NDIA's Participant Employment Strategy has initiatives to help address this issue, but they need to be implemented as a priority.

People with a disability who are looking for work often do not know which jobs are available for which that they have, or could develop, the capacity. As discussed earlier, the planning process should assist participants to identify opportunities to develop their capabilities to increase their independence. Securing employment can be a big step towards greater independence for those who are capable of it.

Jobseekers need information too about the performance of support providers—similar to what is available in Disability Employment Services (DES) where providers are rated on their relative performance in successfully placing participants in sustainable employment or education, after adjusting for differences in their client characteristics and local labour market characteristics. DES performance information shows that there is a very wide gap between the best performing providers and other providers, suggesting that there is potential to significantly improve outcomes.

The NDIA should measure and provide information about provider success rates to support participants to find and maintain employment. This might be done in conjunction with the development of digital marketplaces.

Measuring provider performance would also enable research on the factors driving performance differences and help to deliver better participant employment outcomes.

Review NDIA rules and processes to allow participants to respond to opportunity

The period between when an employer shows interest in a jobseeker with a disability and the first day of employment can be too long for many employers. NDIA rules and processes contributing to this problem need to be reviewed with the objective of allowing employment support providers to assist participants to respond to employment vacancies in a more timely manner. Introducing greater plan budget flexibility could be one approach.

I have 24 year old son, who would have some capacity to engage in employment in a part time capacity, however the process for him to firstly register with employment provider is arduous and inefficient. We have had to endure multiple appointments—employment provider, then Centrelink assessor, then at least three phone calls to Centrelink, and employment provider, then back to Centrelink as there was issues with linking him to provider. All of this just to help get him some support to explore employment for up to 8 hours a week. These all involved taking him out of his NDIS activities for the appointments and I had to take leave from work to attend with him as nominee. (Carer's comment to inquiry)

Accommodation

Helping the NDIS market solve accommodation problems

Suitable accommodation is universally important because it can lead to:

- higher life satisfaction, through a better domestic environment
- enriching relationships, through sharing a home with family, friends and housemates
- improved education and employment prospects, by providing a more supportive and stable domestic environment.

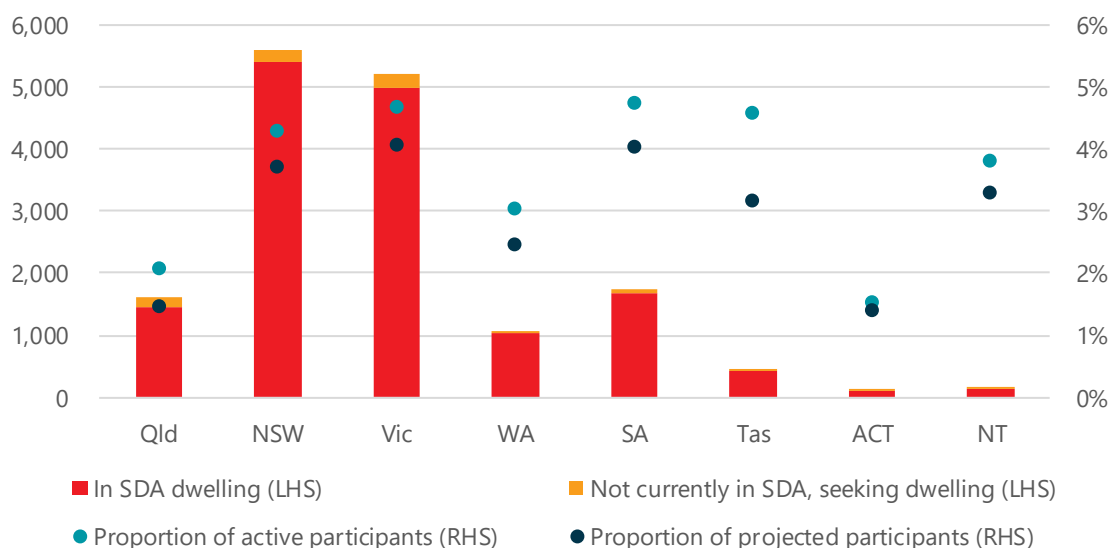
For people with a disability, suitable accommodation can also provide for safe mobility around the home through appropriate accessibility supports.

Suitable accommodation for people with a disability is therefore an important foundation for the broader success of the NDIS. Without it, participants will find it much more difficult to achieve their goals and it will be harder for the scheme to achieve better outcomes.

The NDIS provides specialist disability accommodation (SDA) for participants who require greater accessibility and support in their homes. This is expected to represent around 6.8 per cent of participants.

The Queensland SDA market appears immature and undersupplied. Apart from the ACT, Queensland has the lowest number of SDA participants as a proportion of total NDIS participants—2.1 per cent. This is half the Australian proportion of 3.9 per cent (Figure 13). The number of participants in SDA did not materially increase in Queensland between June 2019 and September 2020. The proportion of people with SDA in their plans but without an SDA dwelling in Queensland (10.9 per cent) is more than twice the national average (4.3 per cent) and exceeded only by the ACT.

Figure 13 Participants with SDA plans and as a share of total NDIS participants, September 2020



Source: NDIA 2020 data downloads, SDA enrolled dwellings and NDIS demand map; NDIA 2020 data downloads, projected participant numbers; QPC estimates.

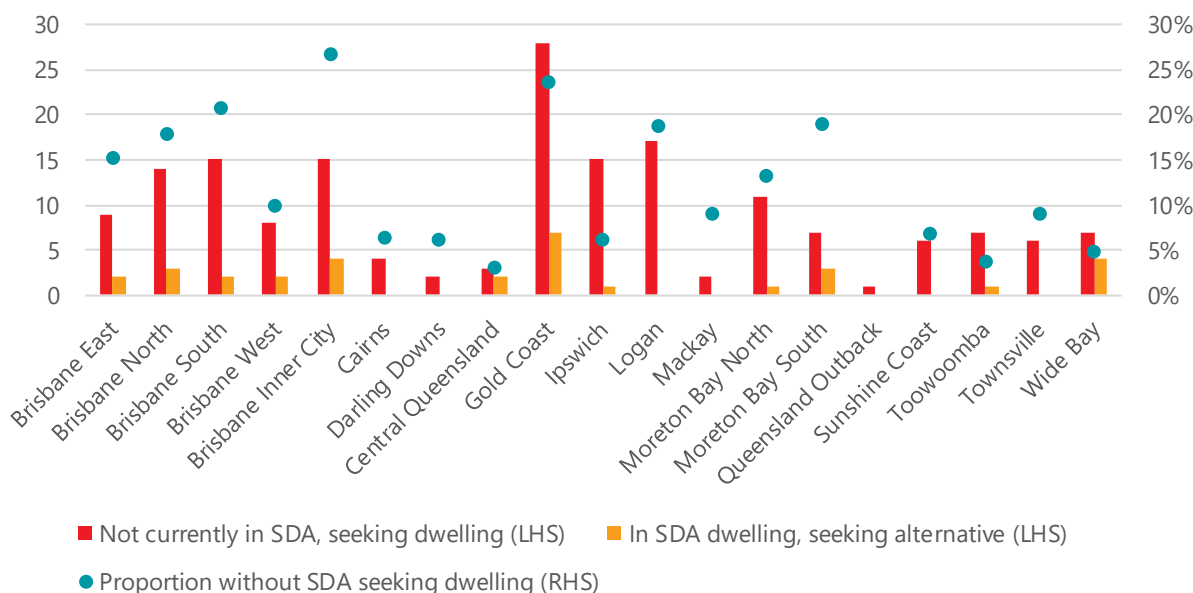
While businesses are interested in the Queensland SDA market, this interest is not translating to activity. Of the 552 registered SDA providers in Queensland only 50, or 9 per cent, were active in Queensland—this compares with 34 per cent nationally.

There are clear gaps in the Queensland disability accommodation market. In particular:

- some areas have a shortage of SDA—the Queensland Outback, a thinly populated remote region representing over half of the state’s land area, has no SDA dwellings
- traditional models of congregate care or group homes still predominate
- few providers are willing to provide accommodation for high-risk cohorts with complex needs and challenging behaviours
- over 1,000 people (in 2019) under 65 years with a disability remain in aged care, including around 80 people aged under 50 years.

Available data on participants with SDA in their plans suggests undersupply across a number of Queensland regions (Figure 14).

Figure 14 Participants seeking an SDA dwelling by region, September 2020



Source: NDIA 2020a; QPC estimates.

The underlying contributors to these gaps include:

- the inherent risks associated with SDA, as opposed to other property types
- a lack of market information available to participants and developers and investors
- the difficulty of matching participants to both available and suitable housing, care and other participants
- NDIA application processes that may result in long delays before participants can access accommodation and in home care
- regulated prices that may not reflect actual costs, creating another area of uncertainty and raising the risk of undersupply.

Developing SDA comes at a higher upfront cost for developers. In a market where tenants can relocate at a moment's notice, developing to specifications that target a small percentage of the population is risky. Furthermore, the funding arrangements for supplying SDA is configured so that payments will only commence once the dwelling is completed, certification has been received, and eligible applicants have commenced residence. As such, developers are faced with a high initial cost and inherent risk that no SDA participants may agree to enter into a tenancy agreement. As a result, SDA's are highly speculative, risky, and difficult to obtain banking finance for. (Property Council of Australia sub. 11, p. 1)

Make market information more available

Investment in assets including housing always involves risk, and it should not be the role of government to have taxpayers bear the cost of mitigating this risk for housing investors. Unless a clear community benefit can be demonstrated, such an approach usually leads to a misallocation of resources across the economy.

However, the risk associated with developing SDA can be reduced in a manner that improves the efficient operation of the market by making information available to developers and investors to allow them to determine and plan for future accommodation needs.

The Queensland Government should work with the NDIA to improve market information about the preferences and needs of people with a disability requiring accommodation so that appropriate housing and in home care can be developed by the market. While protecting the privacy of participants, information should be available on the requirements of NDIS participants and the types of dwellings needed.

Streamline access to accommodation and supported independent living

Current access processes are highly contingent on accommodation and supported independent living (SIL) already being available, resulting in a participant and a provider sometimes having to wait more than 12 months for a SIL quote to be approved by the NDIA. This can create a 'chicken and the egg' problem. Removing circular processes would increase the efficiency and capacity of the market to meet the needs of participants.

The process to access SDA, more complex home modifications and SIL could be simplified so that access to supports is pre-approved, regardless of their availability at the time. This would help to stimulate supply by reducing approval delays to fill vacancies and provide clear signals to investors and providers on the demand for these accommodation related supports.

Improve matching for accommodation

Matching people with a disability to suitable accommodation and to suitable housemates is a particular challenge for the sector. Coordinating participants with accommodation requires a careful balance between providing participants with choice and control and efficiently using the housing stock.

The Commission is seeking further information on this issue.

Conflicts of interest in the provision of accommodation and services in the home

Given the overlap between SDA and SIL there are risks of conflict of interest—as a provider of one service has an incentive to direct the participant to another service they operate, rather than the service which best matches their needs and/or offers the best value for money. Integration of accommodation and SIL may improve efficiency; help to manage tenancy risks; and lower overheads and transaction costs from the provider's perspective. However, bundling of accommodation and SIL may prevent a participant exercising choice and incentivises providers to not allow competing services into a person's home and may increase risks of abuse or neglect.

The Commission is seeking further information on the benefits, costs and risks of greater separation of supports.

Thin markets in rural and remote areas

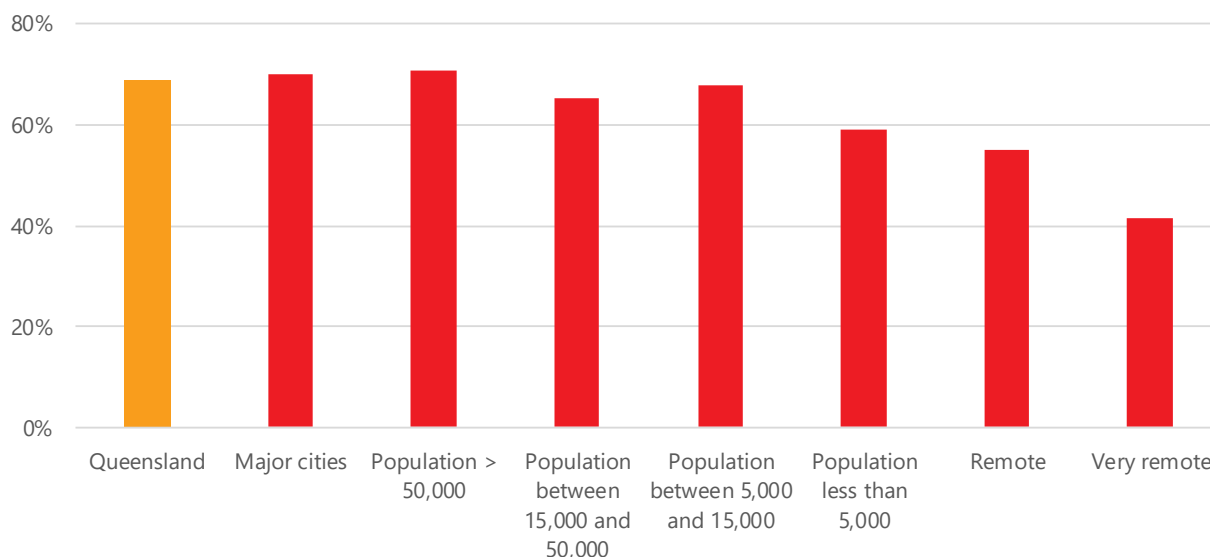
Targeting underperforming markets

Thin markets are NDIS submarkets where there is a deficiency of providers in a geographic area or support registration group, limiting participants' choice of supports.

Thin markets—as indicated by high concentrations of providers and missing markets—exist in a number of local government areas, predominately in rural and remote areas (Figure 7).

The existence of thin markets can limit the ability of participants to access services. While the existence of thin markets is not the only cause for low plan budget utilisation, it is likely to be a major contributor. Plan budget utilisation rates of below 60 per cent in remote areas and below 50 per cent in very remote areas are significantly below the state average of 69 per cent (Figure 15). People with a disability in remote and very remote areas are receiving around half the supports their plans suggest they could be.

Figure 15 Plan utilisation by remoteness, Queensland, 30 September 2020



Source: NDIA 2020a, p. 297.

There are a number of contributors to thin markets in rural and remote areas, many of these challenges are not unique to the NDIS but are relevant to any service provision in these areas:

- In very small, isolated submarkets, there may be insufficient economies of scale and scope to support local supply—there are 36 local government areas in remote and very remote areas with fewer than 50 NDIS participants, and 24 local government areas with fewer than 20.
- Distances are vast and travel options are few, leading to higher costs for providers.
- A skilled workforce is difficult to attract and retain.

The impact of these factors is further complicated by design features of the NDIS:

- price regulation whereby caps are set for supports
- a market model whereby individual participants engage with individual support providers, which can make economies of scale and scope more difficult to achieve.

Addressing thin markets in rural and remote locations

The measures to address participant, provider and market problems discussed earlier should help address some thin market issues. In particular, supporting self-management of plans and market coordination mechanisms may assist.

Coordinated purchasing arrangements that provide for individual participants to pool their funds may be a mechanism for generating economies of scale for providers in thin markets. Greater collaboration among service providers, mainstream services, governments, local organisations and the NDIA may also improve participant access to NDIS disability supports.

As rural and remote areas often have specific challenges and opportunities for solutions, one size may not fit all. Instead, different solutions may be required depending on the circumstances of the local area. The NDIA and governments will need to be agile enough to identify these and respond accordingly.

In some cases, the challenges may be such that service provision under the NDIS market model may not be financially sustainable. In these cases, alternative commissioning models may be required, including the NDIA purchasing supports directly on behalf of participants. Where this is required, participants should be involved in decision-making to the greatest extent possible to maximise their choice and control, and supports should be commissioned through a competitive process.

Aboriginal and Torres Strait Islanders and the NDIS

Supporting Indigenous participation

Aboriginal and Torres Strait Islander people experience disability at almost twice the rate of non-Indigenous people, and higher rates of disadvantage across a range of areas including, health, education, income and employment compared to non-Indigenous Australians. For some Aboriginal and Torres Strait Islander participants, the NDIS is unlikely to deliver real and sustainable outcomes if other priority issues such as housing, food security and health are not concurrently addressed.

Aboriginal and Torres Strait Islander people may face additional barriers to accessing and participating in the NDIS, including language and communication barriers, a distrust of government and mainstream services, socio-economic disadvantage, remoteness and cultural barriers.

The number of Aboriginal and Torres Strait Islander participants in the scheme in Queensland is below expectations and Indigenous participants utilise less of their budgets than non-Indigenous participants, particularly in remote and very remote regions. This suggests there is a shortage of supports that meet the needs of Indigenous participants.

Improving Aboriginal and Torres Strait Islander people's access to and participation in the scheme will require more effective engagement with individuals and communities. Options for achieving this include greater collaboration with local communities and community organisations, and the development of dedicated access pathways that better meet the needs of Aboriginal and Torres Strait Islander people.

Facilitating the delivery of supports

The presence of small markets, a lack of financial incentives for providers, and workforce constraints may all be contributing to an undersupply of services that meet the needs of Aboriginal and Torres Strait Islander participants.

To facilitate development of the workforce and provider market, the Queensland Government should ensure worker screening processes do not exclude individuals who do not present an unacceptable risk to NDIS participants from working as providers or in provider organisations.

In some areas, the NDIS market is unlikely to support the delivery of services. Alternative commissioning models may be required to ensure the delivery of disability supports, with commissioning arrangements as participant-driven as possible. Where this is not feasible, a 'second-best' demand-driven approach may be to facilitate choice and control at the local community level by involving communities in commissioning decisions. Commissioning arrangements should also be considered in conjunction with broader and longer-term reform objectives for improving outcomes in Indigenous communities.

To develop the evidence base of 'what works' and to better target funding, the NDIA and governments should undertake and publish evaluations of programs aimed at improving the participation of Aboriginal and Torres Strait Islander people in the NDIS.

Queensland Government interventions and interactions

Contributing to the NDIS

The Queensland Government maintains several roles and interventions in the NDIS market. Many of these roles are under ongoing review, and in general these are being transitioned toward market-based and nationally consistent approaches.

Authorisation of restrictive practices

A key ongoing function is the authorisation of restrictive practices. Both the Queensland and Australian Governments have restrictive practices legislation, with both regimes applying to NDIS participants, although the Queensland regime applies beyond the NDIS. Table 5 indicates the scopes of the two regimes.

Table 5 Persons and providers covered by restrictive practices regimes

		Queensland	NDIS
Age of person	Children (<18 years)		✓
	Adults	✓	✓
Disability type of person	Intellectual or cognitive disability	✓	✓
	Other disability types		✓
Participant status	Is an NDIS participant	✓	✓
	Other	✓	
Service providers	NDIS providers	✓	✓
	Non-NDIS providers	✓	

Stakeholders have indicated that the combined governance of restrictive practices under Queensland and Commonwealth laws in the NDIS is complex and confusing. This can increase costs, deter market development of relevant services, and risk harming or undermining the rights of persons to whom restrictive practices are applied.

The Queensland Government can take some initial steps to harmonise the two regimes by amending its definitions of types of restrictive practices and its formal requirements around the content of positive behaviour support plans (PBSPs) in the Queensland regime to be consistent with the NDIS Restrictive Practice Rules.

Further harmonisation would require deeper consideration of the costs and benefits.

The Commission supports the Queensland Government's intention to remove its statutory monopoly for the preparation of PBSPs for seclusion and containment, and transition toward market-based private provision of PBSPs. However, measures should be taken to ensure vulnerable participants are protected, such as monitoring the quality of PBSPs and the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships remaining a 'provider of last resort'.

Interface issues between State services and the NDIS

Since governments agreed to introduce the NDIS, there have been ongoing discussions among the Australian and state governments and the NDIS regulatory agencies to resolve interface issues between state service delivery agencies and the NDIS.

Several interface issues remain which can affect the ability of participants to access NDIS supports, including:

- barriers to participants accessing NDIS supports in Queensland Government institutions such as schools, hospitals and custodial settings. While those barriers may adversely impact the wellbeing of NDIS participants, the interests of those participants should be balanced against the interests of other relevant persons and operational realities. This will usually require:
 - devolving the decision to someone in authority with the best understanding of the competing interests involved (for example, a school principal)
 - a decision-making process that is broadly consistent with principles of natural justice.
- lack of coordination of disability supports across mainstream services and the NDIS. This can lead to gaps in support and suboptimal outcomes for participants. While in some cases progress is being made, other issues, particularly relating to the need for coordinated service provision for people with complex psychosocial disabilities, appear to be more fundamental. The resolution of the latter will be complex, requiring specific consultation and expertise in developing solutions
- discontinuities in support when a participant is in a state institution, which can adversely impact participant wellbeing. The Queensland Government is currently engaged in intergovernmental processes to develop information sharing arrangements. In developing these arrangements, the Government should ensure that competing participant interests are appropriately considered, and that arrangements can be properly understood and implemented by stakeholders and agency staff.

Intergovernmental governance

Improving government oversight

Intergovernmental decisions drive the development of disability policy and the implementation of reforms. They shape the legislative and regulatory environment within which the NDIS operates, with a consequently large impact on NDIS submarkets. State and territory governments are closely involved in these decisions, which affect their citizens, the return on their funding contribution to the NDIS, and the demand for other services that they provide.

The Standing Council on Disability Reform (DRC), which formerly reported to the Council of Australian Governments (COAG), was the major inter-governmental forum for oversight of the NDIS and broader disability policy and the decision maker on NDIS policy issues. The Disability Reform Ministers' Meeting (DRMM) will continue under the new arrangements accepted by National Cabinet following the National Cabinet Review of COAG Councils and Ministerial Forums.

The DRC had a long list of unfinished policy reforms to be considered and implemented. The governance arrangements for the DRMM need to encourage the development and implementation of reforms to the NDIS.

The new arrangements must also ensure that the states and territories have a continued role in policy development and implementation, given the interests of states and territories involved, the continuing role of states and territories in the operation of the NDIS and in sectors which interact with the NDIS, and the opportunities for states and territories to make a positive contribution to the scheme.

The DRMM also needs:

- a clearly defined purpose, including ensuring the implementation of agreed reforms to the scheme
- clearly defined roles and responsibilities linked to its purpose
- powers and authority to achieve its purpose, while continuing to support the independence of the NDIA
- improved access to relevant information, including about the scheme's financial position and performance
- adequate and focused support from officials
- to be more transparent about the progress of reforms, its own performance against its priorities, and the performance of the NDIS.

Review of regulatory obligations

The large number of rules, regulations, operational guidelines, policies, standards, codes and advice increases the transaction costs and risks of the scheme for providers and participants. Many providers and participants highlighted concerns about the burden of these interventions and the costs of 'navigating' the scheme. There could be scope to reduce this burden while achieving the same or better scheme outcomes, and protecting vulnerable participants.

Excessive burdens could develop if:

- new interventions are introduced without going through a rigorous policy development process, involving consideration of a range of options, stakeholder consultation and assessment of costs and benefits
- interventions remain in force after the circumstances that justified their introduction have changed. Regulatory regimes often include sunset provisions to ensure that regulations are periodically reviewed to confirm that they remain efficient and effective.

The DRMM could commission periodic independent reviews to ensure the processes for developing new regulatory obligations and the obligations themselves are fit for purpose.

Recommendations, findings and information requests

Recommendations that refer to the 'Queensland Government proposing' should be read as the Queensland Government proposing through the Disability Reform Ministers' Meeting, unless otherwise stated:

Each recommendation seeks to achieve one or more of the following aims:

- Increase availability of information
- Realign participant, provider and agency incentives
- Increase flexibility and remove restrictions
- Simplify processes and reduce compliance burden
- Improve governance of the scheme.

The NDIS and its transition

Draft Finding 1

The transitioning of Queenslanders into the NDIS has been slower than expected. As of September 2020, 90 per cent of the 91,217 who had been expected to be in the scheme by mid-2019 have transitioned. At current transition rates, that number should be achieved by the first half of 2021.

Queensland's rate of transitioning of people with a disability into the scheme was slower than most other jurisdictions, with the state having to face various implementation challenges.

Participant outcomes

Draft Finding 2

While it is too soon to assess the longer-term effects of the NDIS, early evidence suggests that it is improving some outcomes for many participants in Queensland, but not as effectively or efficiently as it could be. There are various barriers that prevent participants fully engaging as informed and active consumers in the NDIS market:

- Access processes are complex and difficult for potential participants to navigate without assistance, limiting participation in the scheme.
- Planning and review processes are confusing and do not always place sufficient emphasis on the participant and their needs and circumstances, which can lead to poorly developed plans.
- Poorly developed plans can restrict choice and control, particularly for those not on self-managed plans.
- Insufficient information or support limits participants' ability to make informed choices among complex service options.
- A lack of services available in some areas and for some supports can also limit choice over the selection of supports.

Draft Finding 3

Certain cohorts of people with a disability face additional barriers in participating in the NDIS, including Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds, people living in rural and remote areas, and people with psychosocial disabilities.

Information requests

The Commission is seeking further information on:

- why participants are sometimes slow to activate their plan
- participant satisfaction with the quality of services provided under the NDIS, and what matters to participants when assessing quality
- the switching behaviour of participants, the barriers to switching, and what factors participants consider when making the decision to switch
- how effectively capacity building is being implemented in NDIS plans
- the extent to which participants are being supported in developing and pursuing learning and employment goals
- the impacts of the NDIS on the health and wellbeing of carers in Queensland, and how easy it is to receive respite support.

Improving participant outcomes

Draft Finding 4

There are opportunities to improve how participants engage with the NDIS at each stage of the planning process through:

- collecting and sharing better information
- clarifying key concepts
- aligning the incentives of participants and the objectives of the NDIS
- basing policy settings and changes on the evaluation of what has worked and what has not worked in the past.

Draft Recommendation 1



To improve the access of eligible people with a disability to the NDIS, the Queensland Government should:

- propose that the Disability Reform Ministers' Meeting oversight the development of the proposed national outreach strategy, including the preparation of a publicly available implementation plan and periodic public reporting on progress
- contribute to the development of the proposed national outreach strategy by:
 - evaluating the effectiveness of existing programs, and any overlaps or gaps between them
 - reviewing information about the population of potential participants in the scheme in Queensland
 - identifying barriers to potential participants from accessing the scheme and about how to address them
 - assessing which programs should be retained and refined
 - considering the roles of the Queensland Government and the NDIA in delivering outreach programs
- propose the monitoring and evaluation of independent assessments, conducted independently of both the NDIA and the organisations selected to implement them
- suggest that the review of national advocacy and decision-making supports consider how the access process could be simplified, to enable and encourage more people with a disability to complete it without the need for these supports.

Draft Recommendation 2



To improve NDIS plan creation, the Queensland Government should:

- propose that the Disability Reform Ministers' Meeting develop a statement on the definition of 'reasonable and necessary supports' and the meaning of 'choice and control'
- complete preparatory work to enable it to make an effective contribution to the development of the statement
- contribute to the NDIA's review of draft plans
- propose that the NDIA:
 - review options for enabling and encouraging participants to access information about the planning process before the planning meeting
 - develop, implement and report on a strategy to remove barriers to self-managed plans, when it is within the capacity of the participant.

Draft Recommendation 3



To improve plan utilisation, the Queensland Government should propose that:

- the NDIA's selection, role description and training for planners and LACs include a 'coaching' role to enable participants to develop their capabilities to increase their independence
- the NDIA's progress in introducing additional flexibility in plan budgets be monitored and evaluated, to ensure that progress is consistent with the desired improvement in performance outcomes
- the NDIA's current consultation process on support coordination be used to clarify the role of support coordination and of the various types of providers engaged in similar roles, to avoid unnecessary overlaps and gaps in services
- the NDIA facilitate reallocating participants' plan budgets towards support coordination when it improves plan utilisation and participant outcomes.

Draft Recommendation 4



To improve the effectiveness of plan reviews, the Queensland Government should propose that the NDIA publicly report on plan reviews, including their outcomes and performance against goals.

Draft Recommendation 5



The Queensland Government should propose that the NDIA produce—for discussion at the Disability Reform Ministers' Meeting—its response to the proposed Commonwealth Ombudsman's annual report on the NDIA's performance on delivery of the Participant Service Guarantee. If the NDIA has not delivered on any performance outcomes, the report should identify proposed actions to remedy the situation.

The Ombudsman's report and the NDIA's response should be published.

Information requests

The Commission is seeking further information on:

- whether adequate advice is available on the role and content of participant goals in the development and execution of participants' plans and in plan reviews
- whether the roles that goals perform in improving outcomes for participants could be improved
- the extent to which the complexity of the access process is impeding entry to the scheme and the benefits, costs and risks of different options for reducing complexity
- the advantages and disadvantages of reforming the access to the NDIS of people with a psychosocial disability
- ways in which the contribution of general practitioners to NDIS participant outcomes could be increased.

Supply side issues

Draft Finding 5

For much of the NDIS market in Queensland there is a sufficient level of provider activity to allow for competition and availability of supports. However, there is evidence of thin markets in:

- rural and remote locations—where there can be limited market size
- certain services, including specialised therapeutic supports—where regulatory requirements can act as a barrier to registration, there can be limited disability related expertise and experience, and the size and location of the workforce is mismatched to demand.

Draft Finding 6

Higher than necessary search costs for participants, their intermediaries and providers are limiting the effective operation of the market in matching participants to their best provider. Those costs create incentives for providers to supply or link to support coordination, creating a conflict of interest and a barrier to entry for new providers.

There is insufficient information available for participants (and providers) to properly assess the quality of providers and supports. This information is also required by the NDIS Quality and Safeguards Commission, participants and providers to assess the effectiveness of the quality regulation and audit requirements.

The different forms of regulation (registered and unregistered providers, and self-, plan- and agency-managed plans) in the NDIS market allow participants, providers and workers some scope to avoid the costs of the regulated/registered NDIS market, although the majority of the market remains regulated.

The regulatory framework has a number of undesirable impacts. In particular:

- The requirements for quality regulation placed on registered providers impose significant fixed costs that create a barrier to supply a small number of participants. This is particularly the case for providers of specialist and therapeutic supports, where NDIS participants may be a small portion of their client base.
- Setting 500 regulatory price caps at efficient levels is not feasible. Price regulation is likely inhibiting market entry, constraining supply of some supports, contributing to lower levels of investment, and limiting the development of new forms of support and service.

Draft Finding 7

The size of the disability support workforce has grown with the introduction of the NDIS. However, labour supply shortages remain for a number of occupations and areas. The NDIS regulatory framework, including for pricing, as well as broader training frameworks also likely affect the quantity and quality of the workforce.

Draft Finding 8

Providers report high levels of policy and regulatory risk that can affect market entry and investment by registered providers. An opportunity exists for the NDIA and NDIS Quality and Safeguards Commission to work with providers to reduce policy and regulatory risk to create an operational environment that encourages investment.

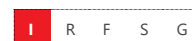
Information requests

The Commission is seeking further information on:

- the experience of self-managed and plan-managed participants in accessing the wider market and how it differs from the registered provider market
- how the 'thinness' of markets can be better measured
- whether the measures presented by the Commission accord with experience in the NDIS market
- which supports participants have the most difficulty in obtaining
- what aspects of a service, such as timeliness, quality or price, are most problematic
- what impact these difficulties have
- the size of search and switching costs, and the resulting strategies used by participants and support coordinators.

Improving market coordination and supply

Draft Recommendation 6



In order to improve the information available to the market to assist participants and providers in planning, the Queensland Government should propose that the NDIA:

- work with stakeholders to determine and address ongoing data gaps
- further increase the availability of basic data in the form of spreadsheets or similar. The NDIA should also make publicly available detailed unit record level data that has been confidentialised so that participants cannot be identified
- review its website and materials to better direct readers to related documents, websites, data, learning materials and research and evaluation materials held by other institutions within and outside the NDIS.

Draft Recommendation 7



The Queensland Government should propose that the NDIA take into account the market development benefits of support coordination when considering the level of funding provided to support coordination.

Draft Recommendation 8



The Queensland Government should propose that the NDIA review its regulatory arrangements, to identify and remove restrictions (including regulation of pricing) on the ability of intermediary roles to evolve according to the market-driven needs of participants and providers, with appropriate safeguards.

If technology and participant preferences evolve the plan manager and support coordinator roles, then the NDIA may need to strengthen disclosure arrangements to address risks from the integration of advisory roles with providers who deliver supports.

Draft Recommendation 9



The Queensland Government should propose that the NDIA develop an Application Programming Interface (API) that allows participants to share their NDIS information and receive provider proposals in a safe way, to facilitate digital marketplaces.

NDIA and NDIS Quality and Safeguards Commission (QSC) policies should support the development of digital marketplaces such that digital intermediaries are able to use both provider and participant information.

This will:

- assist providers in identifying new market opportunities, such as opportunities to coordinate demand in markets where there are relatively few participants (through demand pooling), and achieve economies of scale
- allow participants to 'post' required supports for tender
- provide direct information for market stewardship on thin markets (where tenders are unmet)
- facilitate price monitoring.

Where the NDIA and QSC hold information on the quality of supports provided, that information should also be made available to enhance the value of digital marketplaces.

Draft Recommendation 10



The Queensland Government should propose that the NDIA allow in markets where there are significant and persistent shortfalls in supply:

- extended service agreements to be offered by participants as an incentive to providers to enter the market and/or expand supply
- longer duration participant plans to support the use of extended service agreements.

Draft Recommendation 11



To inform participants, providers and other stakeholders on the nature of harm arising in the NDIS market, the Queensland Government should propose that the NDIS Quality and Safeguards Commission report regularly on the incidence and context of participant harm.

Draft Recommendation 12



The Queensland Government should propose that the NDIS Quality and Safeguards Commission work closely with stakeholders such as the Aged Care Quality and Safety Commission and the Australian Commission on Safety and Quality in Health Care to streamline quality standards and introduce mutual recognition of professional qualifications across relevant sectors.

Draft Recommendation 13



The Queensland Government should fund a pilot for Allied Health Assistant roles to better understand the role in the context of disability services, particularly in relation to delegation and supervision, and risk management. Greater use of Allied Health Assistants can help alleviate some of the shortage of allied health professionals and provide a pathway for support workers or new workers to the industry seeking to increase their skill levels. The pilot should be led and coordinated by industry.

Draft Recommendation 14



In response to economic conditions arising from COVID-19, and given persistent challenges in attracting support workers to the disability sector, the Queensland Government should temporarily relax the eligibility criteria for the CERT III Guarantee to allow workers who already have a CERT III to receive funding assistance for a disability sector related CERT III.

Draft Recommendation 15



The Queensland Government should propose that the Australian Government introduce a Provider Guarantee as a counterpart to the Participant Service Guarantee.

As part of the Provider Guarantee, the NDIA and the NDIS Quality and Safeguards Commission should institute processes to regularly review their regulatory requirements to ensure that they produce net benefits. A timetable of reviews should be publicly released, with the review process being transparent and involving consultation with the sector.

Information requests

The Commission is seeking further information on:

- whether the Information, Linkages and Capacity Building (ILC) program serves Queensland well
- other options for reducing investment risk
- other options for addressing workforce shortages, such as, customised traineeships, ways to increase employment of people with a disability in the sector, and ways to better 'market' the sector to prospective workers
- any impediments to or ways to facilitate business development in the sector, including potential Queensland Government roles
- the design of the proposed provider guarantee, including:
 - the principles that a provider guarantee would be based on
 - what services types, description of guarantees, and service guarantee metrics could usefully be included in a provider guarantee
 - what reporting and accountability mechanisms could be put in place for the provider guarantee to increase provider confidence in the direction of the NDIS market
 - whether the guarantee is an effective option to reduce risk and uncertainty.

Improving price regulation

Draft Finding 9

Price regulation—the setting of price caps and the definition of supports in the support catalogue—is a highly intrusive form of price regulation and can have significant unintended consequences for the development of markets. Conversely, there are also potential benefits from reducing the prevalence of highly monopolistic pricing behaviours that might occur in some markets in the absence of price setting.

Draft Finding 10

The analysis of Queensland markets indicates that there are a large number of markets which should move to light-handed price regulation over the next two to three years, or sooner. These markets account for the majority of Queensland NDIS participants.

Draft Finding 11

Reforms take effort and time. Rather than expending resources on what will be an unending process of adjusting price caps, and contributing to 'locking-in' price setting long-term, NDIA and provider efforts should shift to preparing for price deregulation.

Draft Recommendation 16



The Queensland Government should propose that the NDIA increase the independence of the NDIA's Pricing Reference Group. A Pricing Commissioner should be appointed who would report directly to the NDIA Board. The role of the Pricing Commissioner should be to:

- chair the Pricing Reference Group
- provide advice on pricing methodologies and parameters
- ensure that the NDIS Quality and Safeguards Commission has significant input into the annual pricing review process and is able to review proposed changes prior to changes being made.

The Pricing Commissioner should be supported by a secretariat independent of the NDIA.

The Disability Reform Ministers' Meeting should issue an annual risk appetite statement providing advice to the Commissioner and the NDIA Board on the appropriate balancing of competing participant outcome, market development and financial sustainability objectives in regulating prices.

To improve transparency of decision-making, Board decisions and supporting information should be made public.

These arrangements should be reviewed as part of the Australian Productivity Commission's scheduled 2023 review of NDIS costs.

Draft Recommendation 17



The Queensland Government should propose that the NDIA include price monitoring and release of price information as additional regulatory tools to be used as part of a pathway towards more light-handed regulation.

Any change to pricing arrangements for an individual market should be signalled well in advance of the change.

Draft Recommendation 18

 I R **F** S G

The Queensland Government should propose that the NDIA treat plan-managed participants capable of self-management (or capable of self-management with the provision of additional supports) similarly to self-managed participants in terms of the application of price regulation. The Price Guide should continue to apply in terms of the recording of payments at cost item level to facilitate price monitoring.

Draft Recommendation 19

 I R **F** S G

The Queensland Government should support the rollback of price cap regulation for price controlled supports by no later than the end of 2022–23 for the majority of Queensland participants. Establishing a target timeframe will assist in providing greater certainty for investment planning.

Draft Recommendation 20

I R F S G

The Queensland Government should propose that the NDIA provide administrative payments data to an accredited provider/s for the establishment of a price comparator website for use by all providers, participants and other interested stakeholders.

Information requests

The Commission is seeking further information on whether:

- the proposals to improve transparency and independence are sufficient to address market concerns and provide greater confidence in the price setting process
- the approach to the rollback of price cap regulation is a sound strategy, in particular whether:
 - the proposed timeframes are realistic
 - there are sufficient protections in place to manage any risks in shifting to more light-handed forms of price regulation
 - it sends the right signals to providers
 - it will improve confidence in the market and its development.

NDIS accommodation issues

Draft Finding 12

Appropriate accommodation is important for the quality of life and social and economic participation for people with a disability, as it is for people generally.

Around 6.8 per cent of NDIS participants are expected to require specialist disability accommodation, the provision of which the NDIA assists. However, a large majority of NDIS participants do not require specialist disability accommodation, and will source their accommodation from the broader housing market.

The appropriateness of specialist disability and other accommodation for NDIS participants will influence their quality of life and the effectiveness of the NDIS in improving participant outcomes.

Draft Finding 13

Queensland's market for specialist disability accommodation (SDA) remains immature. There is evidence that:

- access to SDA plans is low relative to projected participation and below that of other states
- the overall supply of SDA in Queensland is below projected levels, and below that of other states
- many people with disability are housed in inappropriate accommodation, including aged care and hospitals
- there are imbalances in the supply and demand of SDA across regions, including no SDA in Outback Queensland and no robust housing in most regions.

Compared to other states and territories, Queensland also has the lowest proportion of supported independent living supports relative to expected full scheme participation.

The market for SDA is inherently riskier than other types of housing. The lack of market information about supply of and participant demand for SDA, and difficulties in matching tenants in SDA are impeding investment.

Draft Recommendation 21

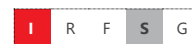


The Queensland Government should propose that the NDIA increase the ready availability of market information on the demand for and supply of specialist disability accommodation (SDA) and supported independent living (SIL) support. This should include the preferences and needs of participants likely to require accommodation, while protecting participant privacy.

Information should be available on:

- the number of participant plans with SDA and SIL support funding, by:
 - location at a detailed level
 - type of accommodation required
 - current living arrangements
- the number of existing SDA and SIL places, by:
 - location at a detailed level
 - occupancy status
 - dwelling type, design category, size
 - construction status
- for more general accommodation needs:
 - location of participants by disability
 - availability of accessible housing.

Draft Recommendation 22



The Queensland Government should propose that the NDIA investigate ways to streamline and align SDA, home modification and SIL access processes in order to provide faster access for participants and clearer signals to providers. Participants' eligibility should be determined regardless of their access to a support or the presence of a provider.

Information requests

The Commission is seeking further information on:

- policy options to reduce conflicts of interest in the provision of accommodation and supports provided within the home
- the costs, benefits and risks in separating the provision of accommodation and supports within the home
- what conditions might be necessary to separate specialist disability accommodation and supported independent living supports
- whether there are their sufficient tools, mechanisms and supports to help participants find a suitable housemate
- whether there are ways to improve the matching of participants to each other and evidence on their effectiveness, including utilising:
 - design of dwelling, such as privacy features
 - technologies, such as digital registers and platforms
 - community networks
 - short or medium term accommodation to trial living together
 - centralised registers and/or team to facilitate
- whether the market supplies enough appropriate housing to NDIS participants
- whether and how broader housing and accommodation issues outside the operation of the NDIS affect the effectiveness and efficiency of the NDIS market.

Participant employment outcomes

Draft Finding 14

Employment outcomes for people with a disability do not appear to have improved since the introduction of the NDIS. The late rollout of the NDIS in Queensland, combined with efforts being focused foremost on getting participants into the scheme, are important contributing factors.

Overall, it would appear that substantial effort will be required to achieve the improved employment outcomes that were envisioned with the introduction of the NDIS.

Draft Recommendation 23



The Queensland Government should propose that the NDIA be required to report publicly annually on its progress and performance in implementing the NDIS Participant Employment Strategy 2019–2022.

Draft Recommendation 24



The Queensland Government should propose that the NDIA expedite the development of its performance measurement systems to support:

- the reliable measurement of outcomes by provider, service type and other service characteristics

- the analysis of differences in performance across providers and through time to understand what is driving performance
- innovation and the diffusion of knowledge on best practice
- the provision of performance information (at a detailed level) to participants and other stakeholders to improve choices and strengthen incentives for improved performance.

Draft Recommendation 25



The Queensland Government should propose that the NDIA make available employment information that would help participants select a provider for employment-related supports, including information which allows comparison of the success rates of providers in supporting participants to find and maintain employment.

Draft Recommendation 26



The Queensland Government should propose that the NDIA review its processes related to assisting people into employment with the objective of significantly reducing the time period between when an employer shows interest in a jobseeker and the first day of employment.

Information requests

The Commission is seeking further information on:

- whether NDIS employment supports are helping participants find and maintain employment:
 - where they are not helping, what are the main issues and how could they be addressed
 - the extent to which integration issues with other sources of support, for example Disability Employment Services, are causing confusion and impeding outcomes
- constraints impeding information provision and improved provider performance, and options to address these issues
- the design, risks and benefits from a comprehensive performance management system allowing for comparisons of the outcomes achieved by providers, analysis of data and the diffusion of learnings to improve system-wide performance
- impediments to tailoring individualised employment solutions imposed by price regulation or participant budget rules, if any
- improvements that could be made to NDIS employment-related initiatives targeting the broader population of persons with a disability, such as, through the Information, Linkages and Capacity Building Program or National Information Program
- options for improving school-to-work transitions in relation to both NDIS participants and the broader population of persons with disability
- government policy and/or NDIA changes which would remove impediments and assist participants in establishing micro-businesses
- supporting case studies, stories and data to support any of the above.

The NDIS in rural and remote areas

Draft Finding 15

Many challenges facing the NDIS in rural and remote areas are not specific to the NDIS, but are relevant to any service provision in rural and remote areas. Low participant numbers, high provider costs and workforce challenges impede the development of the NDIS market in rural and remote areas, resulting in supply gaps, unmet participant demand and reduced choice and control in some areas.

Draft Recommendation 27



The Queensland Government should propose that the NDIS Thin Markets Project prioritise the development of a thin market framework that:

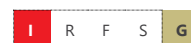
- establishes arrangements for identifying thin markets and developing timely responses
- responds to the underlying causes of thin markets on a case-by-case basis
- considers options for improved market coordination, including mechanisms to facilitate coordinated purchasing among participants
- considers alternative commissioning models for purchasing supports where other market-oriented options are not viable
- ensures thin market responses are adequately and consistently evaluated and reported.

Draft Recommendation 28



The Queensland Government should propose that the NDIA Review of the Local Area Coordination framework evaluate the effectiveness of Local Area Coordinators in rural and remote areas of Queensland.

Draft Recommendation 29



The Queensland Government should propose that the NDIA's proposed Review of Support Coordination consider:

- the market for support coordination in rural and remote locations, including the availability and quality of support providers and whether there are areas of unmet demand
- whether the increased inclusion of support coordination in the plans of rural and remote participants would be an effective and efficient means of improving plan utilisation and building capacity in rural and remote locations.

Information requests

The Commission is seeking further information on:

- whether participant travel arrangements under the NDIS are a barrier to accessing disability services in rural and remote areas
- innovative service delivery models in rural and remote areas, and opportunities, barriers and risks related to using them
- barriers preventing participants from selecting particular plan types in rural and remote areas
- barriers preventing improved collaboration and coordination in service delivery in rural and remote markets
- mechanisms to facilitate coordinated purchasing and barriers preventing their implementation.

Aboriginal and Torres Strait Islander people and the NDIS

Draft Finding 16

The NDIS may not be delivering intended outcomes for all Aboriginal and Torres Strait Islander participants due to:

- barriers that limit scheme awareness, understanding and participation, including:
 - language and communication barriers
 - distrust of government and mainstream services
 - socio-economic disadvantage
 - remoteness
 - cultural barriers.
- barriers that limit the provision of services that meet the needs of Aboriginal and Torres Strait Islander participants, including:
 - small markets with low demand
 - a lack of financial incentives, possibly owing to NDIS price regulation
 - workforce constraints
 - conditions in some communities that do not support economic activity.

Draft Finding 17

Some markets may not support competitive service provision and alternative commissioning models may be required to ensure the delivery of disability supports to Aboriginal and Torres Strait Islander participants. Where this is the case, commissioning arrangements should be participant-driven to the greatest extent possible. This may be achieved through increased involvement of communities in commissioning decisions.

Draft Recommendation 30



To improve the evidence base of what works for the delivery of the NDIS and disability supports to Aboriginal and Torres Strait Islander people, the Queensland Government should:

- evaluate and report on initiatives for which the Queensland Government is responsible
- propose that the NDIA evaluate and publicly report on initiatives undertaken to improve delivery of the NDIS to Aboriginal and Torres Strait Islander people with a disability, their families, carers and communities.

Draft Recommendation 31



The Queensland Government should propose that the NDIA's proposed Review of Support Coordination consider:

- the market for support coordination in Aboriginal and Torres Strait Islander communities, including the availability and quality of support providers and whether there are areas of unmet demand
- whether increased inclusion of support coordination in the plans of Aboriginal and Torres Strait Islander participants would be an effective and efficient means of improving plan utilisation and building capacity.

Draft Recommendation 32



The Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships should provide supports for Aboriginal and Torres Strait Islander people regarding worker screening requirements under the *Disability Services Act 2006*. In developing these supports, the Department should consider recommendation 73 of the Queensland Family and Child Commission's 2017 Review of the blue card system and whether similar reforms should be applied in respect of the yellow card system.

Information requests

The Commission is seeking further information on:

- barriers preventing Aboriginal and Torres Strait Islander participants from selecting particular plan types
- the incentives within the NDIS for providers to deliver effective supports to Aboriginal and Torres Strait Islander people with a disability, including whether the NDIS Price Guide properly reflects the investment required to provide effective supports to Aboriginal and Torres Strait Islander people
- whether NDIS rules regarding the employment of family and informal supports pose a barrier to developing the Aboriginal and Torres Strait Islander workforce, particularly in remote and discrete communities.

Queensland Government roles and interventions

Draft Recommendation 33



The Queensland Government should promote clarity and efficiency in its restrictive practices regime, by:

- amending the definitions of types of restrictive practices in the *Disability Services Act 2006* to be consistent with the NDIS restrictive practice rules
- harmonising formal requirements around the content of positive behaviour support plans (PBSPs) to be consistent with the NDIS restrictive practice rules
- reviewing the resources available to and actions undertaken by the Queensland Civil and Administrative Tribunal, the Office of the Public Guardian and the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships to ensure that they are able to adequately manage the authorisation process.

To help foster a market for the private preparation of PBSPs while exercising appropriate caution in ensuring that those being produced are of appropriate quality, the Queensland Government should:

- proceed with its commitment to remove its statutory monopoly for the preparation of PBSPs for seclusion and containment
- signal its intention to withdraw from preparing PBSPs, but in the short term continue to prepare PBSPs and remain a provider of last resort
- as part of its normal authorisation processes, monitor the quality of PBSPs being developed.

Draft Recommendation 34



The Queensland Government should continue to engage in intergovernmental processes aimed at resolving issues around NDIS participant access to transport services generally.

If arrangements for suitable participant disability transport supports in participant plans continue to remain unresolved, the Queensland Government should propose that the Taxi Subsidy Scheme applied to NDIS participants be modified so that equivalent transport options are treated equally.

Information requests

The Commission is seeking information on:

- the major barriers to entry into the provider market for PBSPs, and how those barriers can be addressed
- what reforms would improve the ability of providers to successfully implement PBSPs
- what disability transport arrangements should replace the Taxi Subsidy Scheme for NDIS participants that will ensure that participants' reasonable transport needs are met and similar transport options are treated equally.

Interactions with Queensland Government services

Draft Recommendation 35



The Queensland Government should evaluate the effectiveness and efficiency of its interventions to promote access to the NDIS. That evaluation should consider all impacts, including but not limited to the effects on participants, providers, adjacent markets, other Queensland Government services, the Australian Government and NDIA, and adjacent markets (such as allied health).

As part of developing a robust and complete approach, the Queensland Government should consider evaluating and quantifying the impact of NDIS transitions on mainstream government services in Queensland, for example the impact of NDIS access on hospital resources.

Draft Recommendation 36



In developing intergovernmental and interagency agreements in relation to information sharing, the Queensland Government should ensure that appropriate weight is given to competing individual interests, such as the benefits associated with increased access and the privacy interests of the relevant person.

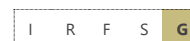
Information requests

The Commission requests information related to:

- specific adverse impacts, either on participant wellbeing or scheme efficiency, of cost-shifting outside the Applied Principles and Tables of Support (APTOS)
- the application of rules to enable access to NDIS providers in Queensland Government mainstream services, including in relation to:
 - the availability or otherwise of an application process
 - where a process was available, any applications which resulted in unreasonable hardship
 - whether there was an adequate process to appeal a decision, or to make adjustments and re-apply
 - whether there is sufficient funding to make those applications, or there are excessive administrative burden or delays associated with making such an application.

Intergovernmental governance issues

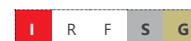
Draft Recommendation 37



To provide effective governance to support the development of the NDIS market, the Queensland Government should propose that the Disability Reform Ministers' Meeting:

- be established as soon as possible
- provides a forum for states and territories to have a continued role in policy development and implementation
- has a clearly defined purpose, including to identify and ensure the implementation of reforms for the NDIS
- has clearly defined roles
- maintains the independence of the NDIA
- publishes regular reports on its progress in delivering its work program
- publicly reports annually on the performance of the NDIA and the NDIS market.

Draft Recommendation 38



The Queensland Government should propose the NDIS Act be amended to

- change the process for agreeing to Category A rules to reduce the time it takes to implement or amend the rules
- incorporate the changes proposed by the Board of Treasurers in its submission to the Tune Review, or other arrangements that would assist the Disability Reform Ministers' Meeting to better understand and oversight the NDIS's financial situation.

Draft Recommendation 39



The Queensland Government should propose the Disability Reform Ministers' Meeting commission periodic independent reviews of whether the processes for developing new regulatory obligations and the obligations themselves remain fit-for-purpose.

Information request

The Commission requests further information on:

- participants' and providers' experience with Rules and regulations introduced under the NDIS Act, and other interventions such as policies, including:
 - effectiveness and extent of consultation before they were introduced or changed
 - frequency with which they have been changed
 - impacts of changes.



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