

Information to support the Independent Review of the National Disability Insurance Scheme – Queensland

March 2023



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1 Executive summary

Despite the historic transformation of the disability support landscape provided by the National Disability Insurance Scheme (NDIS), and the achievements to date, there are significant and ongoing issues with implementation of the scheme. These have been articulated in a number of previous submissions made by the Queensland Government to a range of inquiry processes, including:

- The (former) Queensland Productivity Commission's (QPC) [Inquiry into the NDIS market in Queensland](#) Final report: Queensland Government submission and Queensland Government response
- Queensland Government submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability
- [Queensland Government submission](#) to the *Review of the NDIS Act 2013 - Removing red tape and implementing the NDIS participant service guarantee* (Tune Review)
- the Health and Environment Committee [Inquiry into the provision of primary, allied and private health care, aged care and NDIS care services and its impact on the Queensland public health system](#): Queensland Government response and Queensland Health submission
- [Queensland Government submission](#) to the Joint Standing Committee on the NDIS – *Inquiry into independent assessments under the NDIS*

On 18 October 2022, in recognition of the significant issues associated with the operation of the scheme, an Independent Review of the NDIS (NDIS Review) was announced, examining the design, operations and sustainability of the NDIS; and ways to build a more responsive, supportive and sustainable market and workforce. It is noted that the Terms of Reference for the NDIS Review require a report to Disability Reform Ministers (DRM) by October 2023, with earlier report backs on priority issues as required.

To assist the Independent Review Panel, Queensland has collated the priority issues previously articulated through the above submissions for consideration as part of the NDIS Review. These priority issues include:

Scheme governance

- It is critical the NDIS is underpinned by strong governance under Disability Reform Ministers that places the views of people with disability at the centre.

Scheme operation

- [Access and outreach](#): Reform is required to reduce unnecessary barriers that prevent eligible people from accessing the scheme, and there is a need to increase proactive outreach to support under-represented cohorts to enter and navigate the scheme.
- [Decision quality and consistency](#): The quality of the planning process requires improvement to get plans right the first time and provide greater transparency in decision-making.
- [Effective interface with mainstream services](#): Outstanding interface issues between mainstream services and the NDIS require urgent resolution, with a particular focus on transport, health, housing, justice and psychosocial supports.

Scheme regulation and stewardship

- Regulatory framework: A review of the design of the regulatory framework is required to ensure proportionate and balanced regulation that provides quality and safe services, builds provider confidence, and encourages market growth.
- Market: Reform is required to implement sustainable and scalable approaches to address thin markets (in terms of locations and service type) and plan underutilisation, particularly in rural and remote areas and for First Nations participants.
- Workforce: Proactive and pragmatic strategies are required to continue to develop a high-quality NDIS workforce that is resourced and skilled to deliver real change for participants.

Scheme sustainability

- Outcomes: The primary focus must be on getting the scheme operating as intended and ensuring outcomes for participants, including addressing fraud in the scheme.
- Effective Tier 2 supports: A root and branch review of the purpose, functions and funding allocated to Information, Linkages and Capacity Building (ILC) and Local Area Coordinator (LAC) functions is required to ensure they are effectively providing Tier 2 supports to support the operation of the scheme.

2 Queensland context

With an estimated population of more than 5.3 million people¹, of whom more than 900,000 have disability, *Queensland's Disability Plan 2022-2027: Together, a better Queensland* reflects Queensland's commitment to collaborating with people with disability, putting their lived experiences and needs at the centre, and championing people with disability to be central to design and decision making on things that impact their lives.

These commitments extend to the nearly 121,000 active Queensland participants in the NDIS², of whom more than 77,000 are receiving funded disability supports for the first time. While Queensland's NDIS transition period formally ended in 2020, the number of Queenslanders entering the scheme will continue to grow significantly, with recent projections indicating Queensland participants will almost double to 223,000 by June 2030³. However, certain cohorts face additional barriers to accessing the NDIS and using their plan, and require extra support to do so.

While First Nations Queenslanders are accessing the scheme in greater numbers and now comprise 10 per cent of all Queensland participants (compared to the national proportion of 7.4 per cent), Australian Bureau of Statistics data suggests there are many more First Nations Queenslanders with disability who have a need for assistance from the NDIS⁴.

A further 5.4 per cent of Queensland participants are from culturally and linguistically diverse (CALD) backgrounds, significantly lower than the 9.2 per cent of participants nationally who are from CALD backgrounds and suggesting a need for focused attention on increasing access for this cohort.

With the vast majority of Queensland categorised as rural and remote, 9 per cent of Queensland NDIS participants live in locations of 5,000 residents or less, in communities of varied population size, distance to major centres, and accessibility. Access to, and provision of, appropriate services continues to be a significant challenge in rural and remote markets.

In 2022-23, Queensland's funding commitment to the NDIS under the *Bilateral Agreement between the Commonwealth of Australia and Queensland on the National Disability Insurance Scheme* (full scheme agreement) is \$2.3 billion. In-kind contributions comprise Personal Care in Schools, Specialist School Transport and Accommodation Support and Respite Services. Queensland seeks to ensure its investment delivers quality services and value for Queenslanders with disability and for the Queensland economy more generally.

¹ [Queensland population counter | Queensland Government Statistician's Office, Queensland Treasury \(qgso.qld.gov.au\)](#)

² Q2 2022-23 NDIS Quarterly Report to Disability Ministers.

³ NDIS Annual Financial Sustainability Report 2021-22

⁴ ABS 2021 Census of Population and Housing

3 Key issues for Queensland

3.1 Scheme Governance

Key issues:

- Collaborative intergovernmental relations, clearly defined roles and responsibilities and a transparent work program are needed to ensure effective scheme operation and oversight

The Commonwealth and state and territory governments are joint stakeholders and funders of the NDIS in Queensland. All have a role in achieving positive outcomes for people with disability and overseeing the financial sustainability of the NDIS. This creates complexity, but also ensures NDIS policy setting is robust and takes into consideration different issues across jurisdictions. Collaborative intergovernmental relations, and clearly defined roles and responsibilities, are needed to ensure effective scheme operation and oversight.

It is critical the NDIS is underpinned by strong governance. Governance must ensure there is a focus on open and transparent communication and sustained, collaborative effort between the Commonwealth, the NDIA, and state and territory governments on the full range of issues involved in implementation and oversight of the NDIS.

Queensland is committed to strengthening responses that are informed by the experiences and perspectives of people with disability, their families, and the disability community. Regular and genuine engagement will ensure the scheme takes account of the lived experience of people with disability and their families and carers.

The QPC Inquiry made recommendations related to improving governance of the scheme, which the Queensland Government accepted. These included that the Disability Reform Ministers Meeting (now ministerial council) should have a clearly defined purpose and role, and should publish and report on its work program, including how it has prioritised and progressed issues. The QPC also recommended that the Disability Reform Ministers Meeting should publish its guidance to the NDIA Board, and limit the guidance to setting the broad parameters within which it expects the NDIA to manage the scheme in order to avoid undermining the NDIA's independence.

The First Secretaries Group's *Review of Ministerial Councils* largely echoes these recommendations through the development of a refreshed structure for Commonwealth-State ministerial engagement to remove areas of duplication and ensure Ministers can focus on issues of the highest priority. Ministerial Councils have been directed to agree a work plan of up to five priorities for each year and to provide high level annual reporting to National Cabinet on progress across their priorities and work plans.

3.2 Scheme operation

3.2.1 Participant Pathways – Access and outreach (NDIS access)

Key issues:

- The initial focus of the NDIS Review needs to be on getting the scheme operating as intended.
- Certain cohorts face additional barriers to accessing the NDIS and using their plan.
- Targeted outreach programs are critical in supporting hard-to-reach cohorts and those under-represented in the scheme to enter and navigate the NDIS.

It is imperative the initial focus of the NDIS Review is on getting the scheme operating as intended. This will inform issues and decision-making relating to scheme sustainability, supports for people ineligible for the NDIS and effective tier 2 supports. It is difficult to assess the effectiveness of interface with mainstream services and Tier 2 services without clarity on reforms required to improve scheme operation. It is also critical to rebuilding trust with the sector that the conversation about cost and sustainability does not dominate the part of the review process focused on scheme design and operation.

The QPC Inquiry identified that certain cohorts face additional barriers to accessing the NDIS and using their plan, including people from culturally and linguistically diverse backgrounds, people living in rural and remote areas, First Nations peoples, and people with psychosocial disability.

The Queensland Government has previously identified a number of other cohorts who also experience challenges in accessing information about the NDIS and making an access request, including: children, children and young people in the child protection or youth justice system, adults in contact with the criminal justice system, people who are homeless or in residential services, people experiencing domestic and family violence, people subject to forensic orders made under the *Mental Health Act 2016*, people with psychosocial disability, including those who are admitted and detained in inpatient settings, and people with impaired decision-making capacity.

To give an example, as at December 2022 just nine per cent of NDIS participants in Queensland were recorded as having a psychosocial disability, which compares to National Disability Insurance Agency (NDIA) and Productivity Commission modelling that estimated around 13.9 per cent of participants would have a primary psychosocial disability. Between July and September 2022, the percentage of eligible access decisions for people whose primary disability was psychosocial was 47 per cent, compared to an average of 78 per cent eligible across all primary disability groups.

A national approach for targeted outreach is needed to: reduce unnecessary barriers that prevent eligible people from accessing the scheme; place additional focus on under-represented cohorts; and provide specialised engagement or individualised, intensive case management for vulnerable people experiencing difficulty accessing NDIS referral pathways, particularly in remote and very remote locations. This would help to achieve more equitable outcomes for all people with disability who are eligible for the NDIS and address higher risk of disengagement. The QPC made recommendations regarding development of a national outreach strategy.

Outreach should identify potentially eligible people and initiate support for them during access and planning. This is essential to ensure people are found to be ineligible because they genuinely have not met the criteria, rather than because they have not understood or been

able to navigate the access process, or have been unable to appropriately and accurately evidence their disability.

Queensland's Assessment and Referral Team (ART) program, which the Commonwealth funded for three years to June 2022, improved access to disability support for people with disability across rural, regional and remote parts of the state by providing free, individualised, one-on-one NDIS application assistance. ART assisted more than 3,100 Queenslanders to access the NDIS, including a significant number of Aboriginal and Torres Strait Islander participants and participants from regional, rural and remote areas. Almost half of these individuals had previously attempted to access the NDIS without success.

The Queensland Government has extended the program for one year to focus on people with disability aged 7-25 year years who:

- identify as First Nations, LGBTQIA+, or culturally and linguistically diverse
- are engaged in or at risk of entering the justice or child protection systems
- are disengaged from education or transitioning from school
- are experiencing, or at risk of, domestic and family violence, harm, homelessness or social isolation
- are young carers or living in regional, rural and remote communities.

Between July 2022 and 31 January 2023, there were 1,330 referrals for support, which indicates there is still a high level of demand for assistance to access the NDIS and a gap within the operation of the scheme that needs to be addressed. Of the 298 people who have met access in that period, 26 per cent are First Nations, 48 per cent live in regional and remote areas, and 44 per cent have disengaged from education.

Further to the access issues set out above, the Queensland Government has previously advocated, and will continue to advocate, for all prisoners, including young people in youth detention centres, to have access to appropriate supports under the NDIS. This also aligns with a Queensland Women's Safety and Justice Taskforce recommendation (Hear her Voice Report 2: Volume 2, recommendation 132) that eligible women and girls who are in custody should have access to the NDIS.

3.2.2 Decision quality and consistency – Planning and decision-making processes

Key issues:

- There is a need to restore confidence that NDIA planning decisions are being made in accordance with the *National Disability Insurance Scheme Act 2013* (NDIS Act) and that review processes are in place to ensure plan budgets will adjust both up and down over the lifetime to match changing support needs.
- There is also a need to ensure participants are adequately supported through any substantial changes in their plan budgets.
- It is critical that consideration is given to how to improve the quality of the planning process to get plans right the first time and provide greater transparency in decisions.

A large proportion of participants are not realising the potential of the scheme. 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. This

can lead to poorly developed plans, which can restrict choice and control, particularly for those not self-managing plans. Insufficient information and assistance limit the ability of participants to make informed choices among complex service options.

The QPC, in its inquiry into the NDIS market in Queensland, made a number of recommendations to improve participant outcomes and experiences in the scheme that the Queensland Government accepted or accepted in principle, including:

- simplifying access, planning and review processes
- assisting participants to use their plans more effectively through capacity building for a strengthened understanding of goals, goal setting, linking service agreements to goals, and outcomes-based contracts
- more clarity around reasonable and necessary supports and boundaries of the NDIS
- maximising participant choice, while safeguarding the scheme and individuals from excessive risks including through a decision-making framework
- improving planning processes with participant access to draft plans and improving participant understanding of planning processes before the planning meeting
- improving effectiveness of scheduled plan reviews by publicly reporting on performance and outcomes
- providing participants with better information to assess the quality of supports and alternative service providers
- evaluating the benefits of support coordination, and any variance between cohorts, and making evaluation results public
- publishing a strategy for addressing potential conflicts of interest in support coordination and reporting on the success of this strategy.

Some key issues with the participant pathway are identified below.

Planner expertise

Planners must have the knowledge and skills required to work with participants and their families to develop quality plans which meet their individual needs. Planners:

- should have sufficient understanding of disability (including for example, psychosocial disability and restrictive practices) and disability supports;
- need an understanding of the child protection system, criminal justice (including the youth justice system) to ensure participants receive timely plans and plan reviews, and participants are supported during transition from mainstream services;
- need to be able to provide culturally appropriate support to Aboriginal and Torres Strait Islander peoples and people from culturally and linguistically diverse backgrounds to improve outcomes for these cohorts;
- should have a good understanding of how mainstream services operate and should be familiar with a range of possible housing options.

Planning processes also must be flexible to respond to people living in rural and remote areas.

The NDIA should allocate planners to work consistently with specific cohorts, and over time, gain experience in working across a number of cohorts. Specialist planners and 'connectors' with relevant expertise should be allocated to NDIA regional offices in close proximity to correctional centres and courts as this will improve access for participants who are in contact with the justice system. The NDIA should also ensure children and young people involved in the child protection and/or youth justice systems are given every possible support and

opportunity to access the NDIS. The role of 'connectors' in rural and remote communities also needs to be clearly articulated, advertised more clearly to communities, supported more fully by the NDIA and monitored for outcomes.

Planning and plan implementation

Too many Queensland participants are receiving plans that do not include the right mix, type, or level of supports to meet their needs. Participants with similar needs and in similar circumstances are receiving plans with differing levels and types of supports. Some plans are inconsistent with the agreed roles and responsibilities of the NDIS and other service systems as defined in the Applied Principles and Tables of Services (APTOS) and are therefore not including all the appropriate reasonable and necessary supports.

Inadequate consideration of participants' goals in determining budgets may result in participants having insufficient funded supports in their plans and will not promote the NDIS principles of maximising choice and control, enabling capacity building, and supporting social and economic participation. Insufficient funding in plans may also lead to unnecessary plan reviews, and to avoidable hospital admissions due to providers withdrawing supports and an absence of other support options.

It is essential for participants, their families and, if applicable, the person's health care team in hospital, to have the opportunity to review a draft version of their plan and make amendments where necessary before the plan is submitted for approval. This would enable errors or omissions in the plan to be corrected and reduce the need for unscheduled plan reviews.

Many participants find it difficult to understand their plan, navigate the NDIS system and connect with service providers. Also, participants may not be able to implement their plan and utilise services because their plan does not contain the right mix, type and amount of supports. People subject to Forensic Orders made under the *Mental Health Act 2016* may need a tailored response.

Specifically in relation to children who are at-risk, participants, their families and their carers should be informed about the supports that can be used to promote and sustain informal care. The Queensland Government submission to the Tune review identified that children and young people in the child protection system should have Support Coordination included in their plans to assist them in connecting with providers and mainstream supports given the complexity of their situations.

Planners should allocate plan funding in ways that enable participants to use their plans flexibly while waiting for services in locations where there are thin markets. Support Coordination should be included in the first plan of every participant to ensure they understand how to utilise their plan and are assisted to connect with providers, unless the participant expressly declines this support. It is acknowledged the need for Support Coordination may change in line with changes to LAC functions and responses to development of thin market responses and service quality.

Reviewing/changing plans

Review processes must be timely, consistent across regions, and not dependent on local relationships. Participants should be advised sufficiently in advance of a review to allow them to prepare and ensure they have people available to accompany them to planning and review meetings.

Planners should be provided with training to understand operations of the child protection system. For example, children in the child protection system who are turning 18 can have difficulty obtaining a plan review in time to ensure their plan meets their disability support needs when they leave care. Planner knowledge of children transitioning from care is critical to ensure stability for children in placement settings when reviewing and changing plans.

Planners also need to be well trained about the criminal justice system, including the courts, and the forensic mental health and disability system. For example, a prisoner's plan review, including participants in youth detention, should be conducted prior to release to ensure they have an active NDIS plan in place when they return to the community.

Plan reductions

Given the significant consequences a reduction in available funding can have for a participant, it is essential any proposed funding reduction is supported by a thorough risk assessment and development of risk management strategies (for example, a gradual step-down approach) in partnership with the participant and their support network. It is also important that clear reasons for the reduction in budget are provided to the participant and their support network, including guardians and substitute decision-makers.

In relation to housing, people with disability living in mainstream housing or Specialist Disability Accommodation (SDA) may be reliant on funded disability supports to maintain and sustain their tenancies. Given the substantial impact of housing and living supports on participant life outcomes, safeguards should be in place to ensure any reduction of funding in a participant's NDIS plan does not compromise their housing security.

Transparency and consistency in decisions

NDIA decisions need to be transparent and consistent to ensure equitable outcomes for people with disability.

Disability Ministers have previously agreed they would work in partnership with those with lived experience of disability and disability representatives on the co-design of a new person-centred model that delivers consistency and equity in access and planning outcomes, consistent with the legislative requirements for assessments as set out under the NDIS Act. Addressing inequitable planning outcomes is critical.

Information about access and planning decisions (including plan reductions) that explains the specific reasons for the decisions should be provided to participants in plain language. This information should clearly explain the options a person could take in response to the decision, including the review process and type of evidence that would be required to support a review of the decision. It should also provide direction on how the person could receive further assistance such as through LACs or ILC services.

Appeal processes

NDIS appeal processes are time consuming and complicated for people with disability, their families and carers. The Queensland Government continues to fund non-government agencies to provide individual advocacy supports, including support to navigate NDIS processes and appeal decisions.

Referrals to the Administrative Appeals Tribunal (AAT) by Queensland participants increased from 0.37 per cent of active participants at 30 September 2020 to 1.61 per cent of active participants at 31 December 2021. There has been a downward trend in the proportion of appeals since 31 December 2021, however the proportion of appeals remains high at 0.70 per cent (at 31 December 2022). It is still too early to determine if this downward trend will continue.

In Queensland, 79 per cent of matters referred to the AAT in the December 2022 quarter were about plans, compared with 58 per cent of matters referred in the June 2020 quarter. The increase in AAT cases is not unique to Queensland, with similar trends being experienced nationally.

All appeal processes need to be streamlined and simplified to reduce barriers for people with disability in appealing NDIS decisions. It is noted the Commonwealth has provided additional funding for the NDIA to implement a new Independent Expert Review program to resolve

disputes arising from NDIA decisions, reduce the number of appeals to the AAT, and provide better and earlier outcomes for NDIS participants. An Oversight Committee is monitoring the phased implementation, processes and outcomes of the Independent Expert Review program. The Commonwealth is also providing additional funding to support participants and their families with the AAT appeals process.

Reform stemming from the recent announcement of the abolishment of the AAT will need to be carefully monitored in the context of the NDIS to ensure participants are able to access appropriate appeal and review mechanisms.

Critically, reform of review and appeal pathways must be accompanied by effective changes to NDIA decision making to improve consistency, transparency and quality of decision making as outlined above to reduce the number of reviews and appeals required.

3.2.3 Mainstream and jurisdictional interfaces

Key issues:

- Outstanding interface issues between Queensland's mainstream services and the NDIS require resolution. Key issues include:
 - Hospital discharge delays and avoidable hospital admissions of NDIS participants continue to place pressure on the hospital and health systems in Queensland.
 - Delays in developing long-term transport policy continue to impact participants.
 - The delay in finalising longer-term models for the delivery of Personal Care in Schools (PCIS) and Specialist School Transport (SST) continues to give rise to market failure concerns.
- The SDA market in Queensland is immature and requires additional stewardship to grow.
- Planning and decision-making process for SDA, SIL and other housing supports need improvement.
- It is critical that the ILC and LAC programs are subject to a root and branch review to ensure a key focus on supporting people with disability to build capacity and access appropriate supports, including under the NDIS.

A well-managed NDIS that is supported across a broader system of mainstream and community supports responsive to the needs of people with disability is essential to ensuring Queenslanders get the supports they need, in the right place and at the right time.

The QPC Inquiry identified a need to ensure implementation issues relating to the interface between mainstream services and the NDIS do not create gaps for participants, increase the cost burden on Queensland's mainstream services, or prevent the realisation of the economic benefits of the NDIS, including market growth. A person-centred approach to the provision of disability supports is needed, which means NDIS supports should be well integrated with other supports and services that participants may require over their lifetime.

Queensland is committed to working collaboratively with the NDIA on NDIS operation and implementation, including the scheme's interface with other government and non-government service systems and supports. While substantial progress has been made since the NDIS commenced in Queensland, some outstanding interface issues remain between Queensland's mainstream services and the NDIS that require resolution. Key issues include:

- differing interpretations of the APTOS, which sets out roles and responsibilities between the Commonwealth Government and jurisdictions;
- NDIS pricing arrangements not meeting the needs of participants transitioning between service systems; and
- incompatibilities in operational processes and policies between the Commonwealth and states and territories. These issues span the health, mental health, transport, education, child protection, and justice systems.

Tier 2 supports such as ILC and LAC are critical to the proper functioning of the NDIS within the broader system of mainstream and community supports for people with disability. When ILC and LAC are operating as intended, they provide effective mechanisms to ensure appropriate interface with mainstream services. Section 3.4.2 below provides more information on tier 2 support.

Delays to hospital discharge for NDIS participants

Delays in accessing NDIS supports are contributing to avoidable hospital admissions and resulting in unnecessarily prolonged hospitalisations. When NDIS participants are medically fit to leave hospital but are unable to be discharged due to NDIS-related delays, there is an impact on patients who would have better outcomes in the community. There is also a cost burden on the public health system as well as diversion of resources away from acute patients presenting at hospitals.

Queensland Health has committed significant workforce effort and investment to support people with disability who no longer require medical care in a hospital to be discharged into an out-of-hospital setting more appropriate to their needs and wellbeing. Queensland's Long-Stay Rapid Response Program was established to support hospital discharge for patients awaiting access to disability and aged care supports. Since April 2021, the program has been able to secure a range of supports for patients, including interim accommodation, home modifications and increased nursing supports.

Queensland Health is currently working with the Commonwealth Government and other states and territories to establish nationally consistent data sharing arrangements for NDIS participants who are in hospital experiencing barriers to discharge. This data will provide more meaningful and transparent information on hospital interface issues with the NDIS.

Approval processes for all NDIS supports required for discharge, including home modifications and assistive technology, must be streamlined to ensure people do not remain in hospital unnecessarily.

Disability Ministers have committed to work with Health and other Ministers as a priority to develop a strategy to improve safe and timely discharge of NDIS participants from hospital. There remains a need for sustainable long-term solutions.

Avoidable hospital admissions of NDIS participants

Many presentations to emergency departments and acute psychiatric admissions are due to providers relinquishing support as they are unable to manage a participant's escalating behaviours of concern. Participants are regularly relinquished to emergency departments by NDIS providers and families when they can no longer cope, where NDIS-funded supports have failed or when the participant has depleted their plan funding.

NDIS providers cite the combined factors of high risk, demand, NDIS pricing and a lack of workforce capability as reasons they are reluctant to offer accommodation and services for these NDIS participants. This has significant impacts on the wellbeing of these participants, and on the health system.

Child protection system

The NDIS Review is an important opportunity to ensure NDIA processes are appropriate for exceptionally vulnerable participants, such as children in the child protection system, for whom the barriers to positive participant experiences are compounded by significant disadvantage. As outlined above, the expertise of planners and the timeliness of the planning and decision-making process for young people exiting care must be improved.

Transport

The NDIA is not funding reasonable and necessary transport supports for NDIS participants although the APTOS clearly states the NDIS is responsible for funding “costs associated with the use of taxis/private transport for people who cannot travel independently or use public transport due to the impact of their impairment/s on their functional capacity”.

Through the Taxi Subsidy Scheme, the Queensland Government has paid participants’ transport supports since 2017. From 2019, states and territories have been reimbursed for the continuation of their schemes for NDIS participants until longer-term transport support policy and funding is resolved. In line with the recommendations from the QPC Inquiry, the Queensland Government has continued to engage in intergovernmental processes to resolve issues around NDIS participant access to transport services. However, work to deliver a long-term NDIS transport policy and broader transport policy for all people with disability continues to be delayed without any real progress.

Transport is a key enabler in many individuals’ broader social and economic participation. It is therefore important to ensure a participant’s budget is sufficient to meet their transport supports, and that transport needs are accurately reflected in how the plan budget is calculated. The Queensland Government notes that transport needs depend not only on a person’s functional capacity, but also on factors such as where they live, distance and frequency of travel required for social, economic and community participation, and the availability of transport options.

Specialist School Transport (SST) and Personal Care in Schools (PCIS)

Jurisdictions have recently agreed to extend in-kind funding and delivery arrangements for PCIS and SST, from their current expiration on 31 December 2023 until 31 December 2024.

It is critical that longer-term arrangements be settled as soon as possible, particularly to ease pressure on SST bus operators and reduce the risk of capacity shortfalls and market withdrawal. Ongoing uncertainty with respect to long-term funding and service delivery arrangements is already impacting on SST fleet capacity in Queensland.

The NDIS Review should include early and intensive engagement with jurisdictional officials to ensure multilateral issues and SST market impacts are appropriately considered in the recommendations to Disability Ministers.

Home and living supports

The SDA market is immature and requires additional stewardship to grow, especially to develop independent living options and the robust category. As at 31 December 2022, 2.7 per cent of active Queensland participants had SDA included in their current plan. Nationally the equivalent metric is 3.8 per cent. The number of Queenslanders not currently in SDA but seeking a dwelling was 338, or more than 9 per cent of the total proportion of Queensland participants with an SDA need.

There are also regional imbalances in supply, with no SDA in outback Queensland and shortages of robust SDA in some regions to support participants with complex behavioural support needs.

The availability of SDA in Queensland has been a persistent issue that has implications intersecting with many mainstream services. For example, the ability to discharge people with disability from hospital settings, the continued accommodation of younger people with

disability in residential aged care settings and the transition of people from custodial and forensic settings have all been impacted by a lack of appropriate accommodation settings.

Developers and providers have indicated interest in building SDA but a mechanism to connect with eligible SDA participants, as well as granular market data, is lacking. A response needs to be identified that enables scales of economy for providers to meet the service gaps.

There is a priority need to resolve issues with home and living supports regarding unexpected reductions in plan budgets; and to set appropriate SDA policy and pricing to reflect how people live.

The Queensland Government has also accepted recommendations of the QPC Inquiry relating to SDA and SIL to respond to identified issues with the planning and decision-making processes. These include:

- the NDIA should 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.
- discussions about housing should be elevated in importance and occur early in planning meetings.
- application of the 'reasonable and necessary' criterion and reasons for housing support decisions on access should be more clearly explained to promote greater consistency and accountability.
- participants with SDA in their plans should be funded at a level that allows a reasonable degree of choice.
- the NDIA should also report regularly on the timeliness of applications and decisions in relation to housing supports and SIL.
- the NDIA should investigate ways to educate participants, planners and support coordinators about housing options available and how housing supports work.

3.3 Scheme regulation and stewardship

3.3.1 Regulatory framework - Quality and safeguards

Key issues:

- A review of the design of the regulatory framework is required to ensure proportionate and balanced regulation that provides quality and safe services also builds provider confidence and encourages market growth.
- It is important there remains a continual focus on improving the capacity of providers to provide high quality and safe services and remedy identified gaps in service quality.

A number of key reviews have identified gaps in service quality. The Disability Royal Commission has noted significant inconsistencies between the experiences of people with disability and the supports, services and safeguards that are built into our communities to ensure all persons with disability, regardless of age, sex, location or support requirement, are protected from violence, abuse, neglect and exploitation. Gaps in service quality are also indicated by the numbers of complaints about service quality reported by the NDIS Commission.

Queensland continues to advocate for both NDIS participants and the sector to ensure any identified gaps in the NDIS quality and safeguarding framework are identified and remedied. Issues identified in previous submissions made by Queensland, including to the Tune Review, include:

- lack of identification of vulnerable participants and appropriate support coordination
- separation of core service providers from those of other supports and services
- the valuable function of LACs that has to date been unrealised
- participants who are identified as vulnerable by the NDIA need to be prioritised when carrying out the community connection role and for proactive outreach
- the importance of active involvement by participants in the preparation of NDIS plans and inclusion of strategies to minimise risk
- the need to consider the risk factors for participants that utilise unregistered providers.

The QPC inquiry also made relevant recommendations, accepted in full or in principle by the Queensland Government, including that the NDIS Quality and Safeguards Commission should regularly report publicly on the incidence and context of participant harm in the NDIS market to help assess whether the regulation of quality of providers is proportionate to the risk of harm to participants.

Both the Tune Review and the QPC inquiry into the NDIS market in Queensland highlighted the importance of separating the provision of accommodation from disability supports to avoid conflict of interest and landlord power over resident. The NDIS quality and safeguards processes need to be strengthened to encourage this separation.

Other relevant QPC Inquiry recommendations are for measures intended to: streamline quality and audit standards; implement a more rigorous and independent pricing process; and allow participants to share their NDIS data with digital marketplaces.

The QPC Inquiry also found that the NDIS has an extensive regulatory and policy framework that is large and overly complex and is operating in a way that impedes the effective and efficient functioning of the NDIS market. With providers reporting changes in policy and regulatory settings create high levels of uncertainty and risk, there is an ongoing need to ensure regulatory systems work effectively together and do not result in unnecessary duplication or red tape which can discourage entry into the NDIS market.

3.3.2 Markets

Key issues:

- Reform is required to implement sustainable and scalable approaches to address thin markets (in both locations and service type) and plan underutilisation, particularly in rural and remote areas and for First Nations participants.

With 40 per cent of NDIS participants in Queensland living outside major cities compared to 32 per cent nationally, thin markets and underutilisation in regional, rural and remote areas represent a significant concern for Queensland. Low participant numbers, high provider costs and workforce challenges continue to impede development of the NDIS market in rural and remote areas.

Thin markets are common in remote and discrete communities. In some cases, thin markets have meant Aboriginal and/or Torres Strait people in care with disabilities have needed to move away from their communities and into residential care to access support.

Queensland Government agencies have also noted supply gaps in early childhood intervention services, particularly in rural and remote areas.

The QPC Inquiry also noted there appears to be an under-representation of Aboriginal and Torres Strait Islander children in very remote areas receiving long-term early intervention supports that could enhance longer term educational outcomes. Children in care also require access to support coordination to help ensure they are accessing the full range of supports and services they need.

For NDIS participants, thin markets contribute to low NDIS plan utilisation and reduced support options. While the average rate of plan utilisation in Queensland is now comparable with the national average, it is unevenly distributed. In Queensland, 34 per cent of participants have a utilisation rate of under 50 per cent.

Further, in the event of NDIS market, administrative or provider failure, which in many cases is because of thin markets of adequate disability supports, the public health system has become the default provider of last resort. This is more likely when the needs of participants are complex or in rural and remote areas. This has significant impacts on the wellbeing of these participants, and the cost of participants who remain in hospital due to thin markets is borne directly by the health system.

More broadly, the NDIS individualised funding model has led to challenges for providers, including: a changing policy environment; concerns about capacity to operate sustainably within NDIS pricing; administrative burdens of complex NDIS processes; and difficulty in adjusting to a market-based approach. Some providers report finding the costs and regulatory requirements of registration a barrier to entering the market.

In order for the NDIS market to grow it is critical providers are sufficiently attracted to become and remain providers. While improvements have been made, a continued focus is required to identify barriers to the entry of providers and opportunities to encourage provider continuity in the sector and continue to build the market in Queensland.

The QPC Inquiry found a 'one-size-fits-all' approach is not appropriate for the stewardship of markets. Some NDIS sub-markets, mainly in rural and remote areas, will not meet participants' support needs in their current form and require alternative approaches, such as demand pooling, to support market supply or direct commissioning of supports where service provision under the NDIS market model may not be financially sustainable.

The QPC recommended the development of an overarching thin markets framework that would:

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

The Queensland Government accepted this recommendation and considers ILC and LAC have a role to play in supporting thin market responses. Without intervention, thin markets have the potential to undermine equitable access to the NDIS, and the availability of supports where they are most needed.

3.3.3 Workforce

Key issues:

- Any significant policy initiatives to increase the supply of labour in the disability sector need to be tightly targeted to markets where workforce shortages strongly contribute to the under-provision of supports.
- There is a need to attract and retain a diverse NDIS workforce to suitably match the demographic and needs of participants

A diverse, responsive and skilled NDIS workforce is needed to meet growing demand for disability supports and services and assist NDIS participants to build capacity, increase social and economic independence, and achieve their goals. Commonwealth Government modelling in the *NDIS National Workforce Plan* indicates Queensland will require a total NDIS workforce of between 68,000 to 76,000 workers by 2024.

The QPC Inquiry noted several workforce issues that pose significant risks to participants and the sustainability of the NDIS, with the availability of appropriate staff constraining delivery of services in some areas and for some supports. A large proportion of scheme costs go to pay the wages of allied health professionals and disability support workers. Any general increase in minimum awards rates of pay will have a very significant impact on overall scheme costs and may not be very targeted to areas of workforce shortages, such as in rural and remote areas. As such, the QPC Inquiry argued any significant policy initiatives to increase the supply of labour in the disability sector need to be tightly targeted to markets where workforce shortages strongly contribute to the under-provision of supports.

It is important the workforce has skills and experience in working with people with complex needs, including those with psychosocial disability, multiple impairments, spinal cord or acquired disability and children in the child protection system. There is also a need to attract and retain a diverse NDIS workforce to suitably match the demographic and needs of participants. Aboriginal and Torres Strait Islander male workers, workers to support children in child protection with complex needs, culturally capable workers, interpreters and younger workers are currently underrepresented in the workforce.

In addition, the QPC Inquiry noted there is a lack of incentives for experienced allied health practitioners to remain in regional and rural areas, particularly where travel costs are not reflected in the price guide and there is no eligibility for the remote or very remote price guide. Queensland Health also experiences challenges recruiting allied health to rural areas despite a number of government incentives.

The QPC made a number of recommendations to alleviate allied health service shortages, which were accepted, accepted in principle, or partially accepted by the Queensland Government:

- Undertake a review that seeks to introduce mutual recognition of professional qualifications across relevant sectors to facilitate the movement of allied health professionals into the NDIS market to alleviate the shortage
- Greater use of allied health assistants and providing a pathway for support workers to increase their skill levels
- A pilot to examine how the NDIS can make greater use of Aboriginal and Torres Strait Islander Health Practitioners and, depending on pilot outcomes, the NDIA should recognise the role of Aboriginal and Torres Strait Islander Health Practitioners in the price guide and consider broadening definitions of supports

- Attracting former allied health professionals into the disability service sector

Industry research suggests that elements of the NDIS design, such as the individualised funding model and pricing caps, shape workforce conditions in relation to low pay (generally set to the award safety net), high casualisation being used by providers to manage variable demand, and underinvestment in training by individual providers. Scheme design needs to be taken into account when considering strategies to promote workforce growth.

Jobs Queensland has been working with WorkAbility Queensland since 2018 to examine the skill demand and supply needs to meet the rollout of the NDIS in Queensland. Research that has been published to date is available through the Jobs Queensland website. According to Jobs Queensland's *Anticipating Future Skills Series* projections, the number of Aged and Disabled Carers alone employed in Queensland is expected to increase by 24.9 per cent in the four years to 2024-25.

Good people. Good jobs: Queensland Workforce Strategy 2022-2032 (Queensland Workforce Strategy) is Queensland's 10-year strategy to guide the development and growth of Queensland's workforce. The Queensland Workforce Strategy emphasises the Queensland Government is committed to working with all levels of government to address current and future workforce challenges and will advocate to the Australian Government in a number of areas, including lifting barriers to workforce participation through childcare subsidies, taxation arrangements, superannuation regulation and the NDIS. A key action under the Queensland Workforce Strategy involves partnering with the health and community services sectors to create and implement sector-led workforce development, attraction and retention strategies.

Maximising workforce participation not only enables employers to draw on a larger talent pool but ensures all Queenslanders have access to employment opportunities, particularly people who have been previously underrepresented. By increasing participation and leveraging the existing skills, experience and qualifications of Queenslanders, including migrant communities and building capacity of local workforces in regional and remote communities, the state can build a stronger, more resilient and capable workforce.

3.4 Scheme Sustainability

3.4.1 Outcomes

Key issues:

- Any consideration of the financial sustainability of the NDIS must include both the costs of the scheme and the participant and economic outcomes delivered by the scheme.

The Queensland Government is committed to a NDIS that is financially sustainable, delivering net benefits for participants over the longer term.

Participant outcomes are central to scheme sustainability. The NDIS was created on the foundational principles that the scheme would increase choice and control and build capacity of participants; and improve wellbeing and economic participation for people with disability and their informal carers. Accordingly, any consideration of the financial sustainability of the scheme must include both the costs of the scheme and outcomes delivered by the scheme.

An accessible, sustainable and well-functioning market is also critical for achieving the expected benefits of the NDIS—most importantly to realise improved outcomes for participants with disability but also the economic benefits to be expected from a financial

investment of this magnitude, including job creation, skills development and increased workforce participation. As such, it is important any consideration of NDIS outcomes includes participant outcomes as well as economic outcomes for Australia more broadly.

It is important people with disability and key stakeholders have confidence in the scheme and its sustainability and that the scheme objectives as set out in the NDIS Act are realised. As such, disability stakeholders must continue to be provided with transparency around scheme sustainability and have the opportunity to actively contribute to any reforms.

3.4.2 Effective Tier 2 supports

Key issues:

- A root and branch review of the purpose, functions and funding allocated to ILC and LAC functions, is required to ensure they are effectively providing Tier 2 supports to support the operation of the scheme, including people who are not NDIS eligible.
- There is a gap in services for New Zealand citizens on Special Conditions Visas who arrived in Australia after 26 February 2001 that needs to be urgently addressed.

Tier 2 – Information, Linkages and Capacity Building and Local Area Coordinators

The effective functioning of ILC and LACs is crucial in promoting social inclusion for all people with disability, not only those who are or become NDIS participants. The Queensland Government is concerned that ILC has not focused sufficiently on supporting people with disability who are not in the NDIS. The LAC role (which originally had an important role in linking non-participants to mainstream services and building community capacity for social inclusion) has also been redirected to planning with participants.

LACs play a key role in individuals accessing the NDIS, however, feedback has been mixed. Some people indicate it is ineffective due to inconsistencies in what is offered to an individual. Another issue is that there still needs to be self-initiated contact. There is no outreach, warm handover is limited and hampered often by consent issues.

It is imperative work is undertaken that focuses on critical Tier 2 functions including individual and community capacity building and information provision. In particular, a root and branch review of the purpose, functions and funding allocated to ILC and LAC functions needs to occur as a priority to ensure that effective Tier 2 supports are in place to support the operation of the NDIS, including people who are not eligible for the NDIS

Queensland Government services for people ineligible for the NDIS, including non-citizens

A gap in services has emerged for non-citizens, particularly New Zealand citizens on Special Conditions Visas who arrived in Australia after 26 February 2001. People in this cohort contribute to the NDIS through the Medicare Levy, however they are unable to access the NDIS if they acquire a significant and permanent disability as they do not meet the residency criteria of the scheme.

In July 2022, the Australian Government committed to announcing a new pathway to citizenship for New Zealand citizens and indicated an intention to remove some of the impediments to access to social services and voting by Anzac Day 2023. In December 2022, the Department of Home Affairs announced New Zealanders who applied on or before 10 December for a subclass 189 visa will no longer face barriers related to income, period of residence and health conditions. Conditions, such as the income threshold and the bar on people with certain medical conditions gaining permanent residency, will be waived for this cohort of visas holders. The impact of these reforms will need to be considered carefully to

ensure it resolves the fundamental issue of New Zealand citizens with high support needs being unable to access the NDIS.