

National Disability Services Submission

Joint Standing Committee on the
National Disability Insurance Scheme:
Capability and Culture of the NDIA

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About National Disability Services

National Disability Services (NDS) is Australia's peak body for non-government disability service organisations, representing more than 1000 non-government service providers. Collectively, NDS members operate several thousand services for Australians with all types of disability. NDS provides information and networking opportunities to its members and policy advice to State, Territory and Commonwealth governments. We have a diverse and vibrant membership, comprised of small, medium and larger service providers, supporting thousands of people with disability. Our members collectively provide a full range of disability services, from supported independent living and specialist disability accommodation, respite and therapy, to community access and employment. NDS is committed to improving the disability service system to ensure it better supports people with disability, their families and carers, as well as supports building a more inclusive community.

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1.0 Executive Summary

National Disability Services (NDS) welcomes the opportunity to make a submission to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) with regards to the Capability and Culture of the National Disability Insurance Agency (NDIA).

The implementation of the NDIS in Australia has certainly improved the quality of life for many people with disability. It is important to remember how rigid, underfunded, and disjointed the block funding of the sector was. People with disability were isolated without access to activities outside the home and now have access to services, enabling more independence and opportunities to socialise and engage with the community.¹ However, trust between disability service providers, people with disability and the NDIA has suffered a series of setbacks in recent years.

Since 2014 NDS has surveyed disability providers to understand the impact of the NDIS and the new operating environment. The quantitative and qualitative results from these surveys continue to tell a story of frustration with administrative burdens, NDIS systems and processes, and the way in which the NDIA works with providers. NDS members have consistently reported feeling as though they are the 'enemy' and of being at the mercy of changing, poorly conceived and communicated changes to policy and operational approaches. They have also spoken of failures of the NDIA to communicate significant changes that impact on the lives of participants, their families and carers in consistent, timely and clear way, meaning that the critical role explaining planning or other decisions to participants falls on providers. These issues must be addressed if the NDIS is to achieve its goals.

¹ Spinal Cord Injuries Australia Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 7 November 2022, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

NDS makes the following recommendations:

Recommendation One

Ensure that the NDIS delivers on its vision by establishing fair and transparent pricing mechanisms that are fit for purpose and support positive participant outcomes.

Recommendation Two

Establish the necessary mechanisms to include providers as a partner in co-design activities undertaken by the NDIS and government.

Recommendation Three

Review the NDIA Engagement Framework and Co-design Steering Committees to leverage the experience and expertise of service providers.

Recommendation Four

Support the development of a Provider Service Charter and Provider Guarantee in partnership with NDIS providers and their peak representative groups.

Recommendation Five

Support and resource the development of a robust marketplace of disability service providers that is innovative and keeps pace with demand and meets the evolving needs of participants.

Recommendation Six

Communication around significant changes to the NDIS includes a targeted communication strategy inclusive of service providers.

Recommendation Seven

Ensure that changes are communicated clearly, early and allow sufficient time for providers to adjust their systems. Where possible significant changes should be trialled prior to being rolled out.

Recommendation Eight

Invest in capable, competent, and dedicated staff for the NDIA to deliver a consistent, high-quality and sustainable disability service sector.

Recommendation Nine

Operate in an accountable and transparent manner and foster a participant-focused approach in collaboration with people with disability.

NDS and our members have a vision of an inclusive Australia where all people with disability live safely and equitably, as we work to bring about positive change within the

sector and ensure the NDIS delivers on its promise for all Australians. A healthy, supported, sustainable provider sector is critical to achieving this outcome.

2.0 Scope of this submission

As per the Terms of Reference for the Inquiry, NDS will comment on the implementation, performance, governance, administration, and expenditure of the NDIS, with particular reference to:

- a. the capability and culture of the NDIA, with reference to operational processes and procedures, and nature of staff employment
- b. the impacts of NDIA capability and culture on the experiences of people with disability and NDIS participants trying to access information, support and services from the Agency; and
- c. any other relevant matters.

NDS looks forward to clarification on how recommendations from the Joint Standing Committee on the Capability and Culture of the NDIA and the NDIS General Issues Inquiry, the Disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability and the NDIS Review will work together to foster and steward an innovative, effective and sustainable sector where providers invest, grow and improve outcomes for participants and the Scheme.

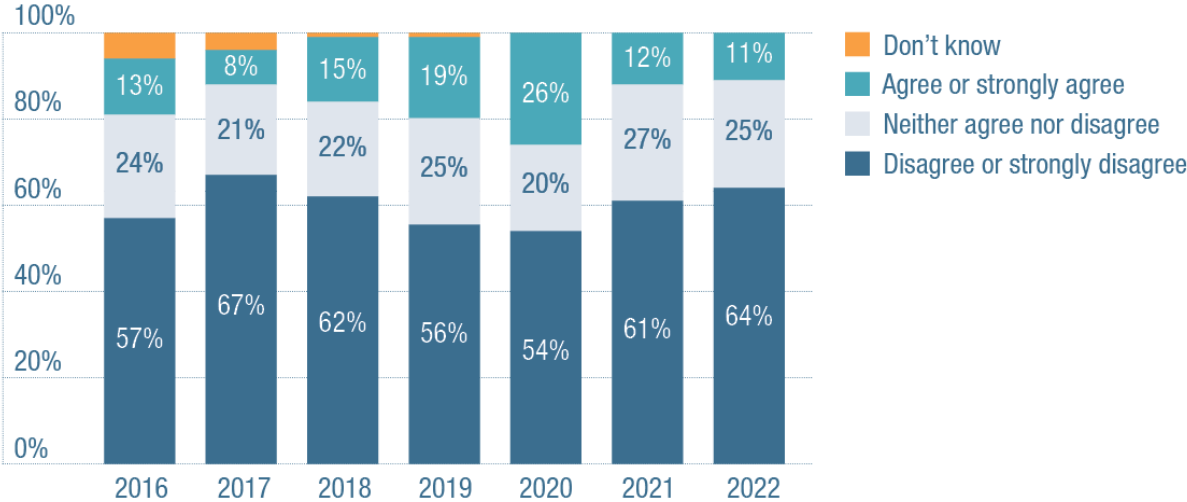
3.0 State of the Disability Sector

The 2022 NDS State of the Disability Sector Report identifies several key themes that outlines the experience of providers working with the NDIA. The Report paints a clear picture of the impact that unclear and constantly evolving operational processes and procedures have on the capacity of the sector to provide high quality supports that meet the needs of NDIS participants.²

As with previous years, the effectiveness of the NDIA's approach to working with providers continues to be an issue. While this has improved compared to previous years, the working relationship between providers and the NDIA is poor. Two thirds of respondents (64 per cent) disagreed or strongly disagreed that the NDIA is working well with providers (only 11 per cent believe that they are working well).

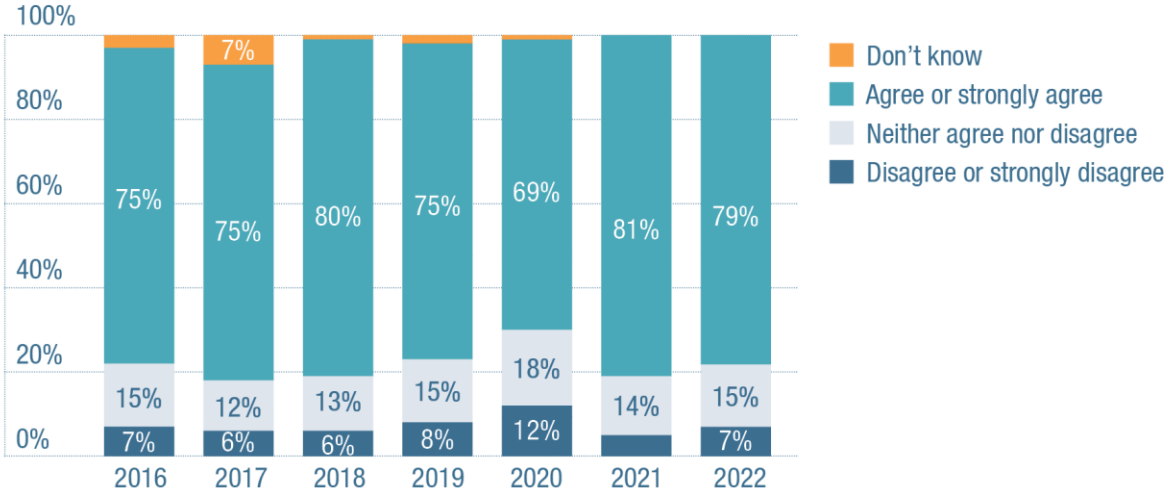
² National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

Figure 1: Perception of the NDIS environment - the NDIA is working well with providers



Providers continue to be concerned about the policy environment with some improvement compared to previous years. In 2022, 79 per cent thought that the NDIS policy environment was uncertain.

Figure 2: Perception of the NDIS environment - the NDIS policy environment is uncertain



'The lack of consistency from the NDIA when we call about issues for clarification is poor. The rules change and the lack of information or reasoning is not clear for many of the participants we support. It is felt that NDIA has made changes and informed providers and expected us to communicate the changes to participants and families, leaving us open to the backlash when the changes are not our decision.'

Vic small not-for-profit (2022 NDS State of the Disability Sector Report3)

Overall, the number of respondents who ‘agreed’ or ‘strongly agreed’ that ‘the risks that the NDIS presents to my organisation outweigh the opportunities’ sat at 30 per cent (roughly the same as the previous three years). Alarming few organisations plan to deliver new types of services in the year to come, even though many were unable to meet the demand for services over the course of the last 12 months, often due to a shortage of workers.

Concern also continued that NDIS prices would not cover costs and support quality service provision. The overall proportion of respondents who agree with the statement, ‘We are worried we won’t be able to provide NDIS services at current prices’ has remained remarkably stable over the last five years. Some 59 per cent of respondents agreed in 2022. This is despite economic stimulus reforms implemented throughout the COVID-19 pandemic such as JobKeeper, COVID-19 support measures and recent increases in NDIS prices for some supports.

‘The operating environment has been very challenging due to COVID-19, [especially] the NDIA’s ongoing reductions to participants plans without any information or notice of why the reductions have been made.’

NT small not-for-profit (2022 NDS State of the Disability Sector Report4)

To remain viable providers are exhausting their limited financial reserves. A recent review of the annual financial statements of three large NDIS providers (combined NDIS income of \$948 million) by consultancy Empathia Group revealed one provider posted a negative 35 per cent on their return on net assets while another would have made a negative 65 per cent on their return of net assets without COVID-19 relief payments.⁵

‘The 2021-22 [finances] present a false illusion of a surplus, [due to] the COVID support payments.’

NSW medium not-for-profit (2022 NDS State of the Disability Sector Report6)

Providers also reported that unfunded activity, such as helping people understand and navigate the scheme, was distracting from direct service provision (together with a related concern that there was insufficient advocacy for NDIS participants). 73 per cent thought that there is not sufficient advocacy for the people they support; only 14 per

³ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

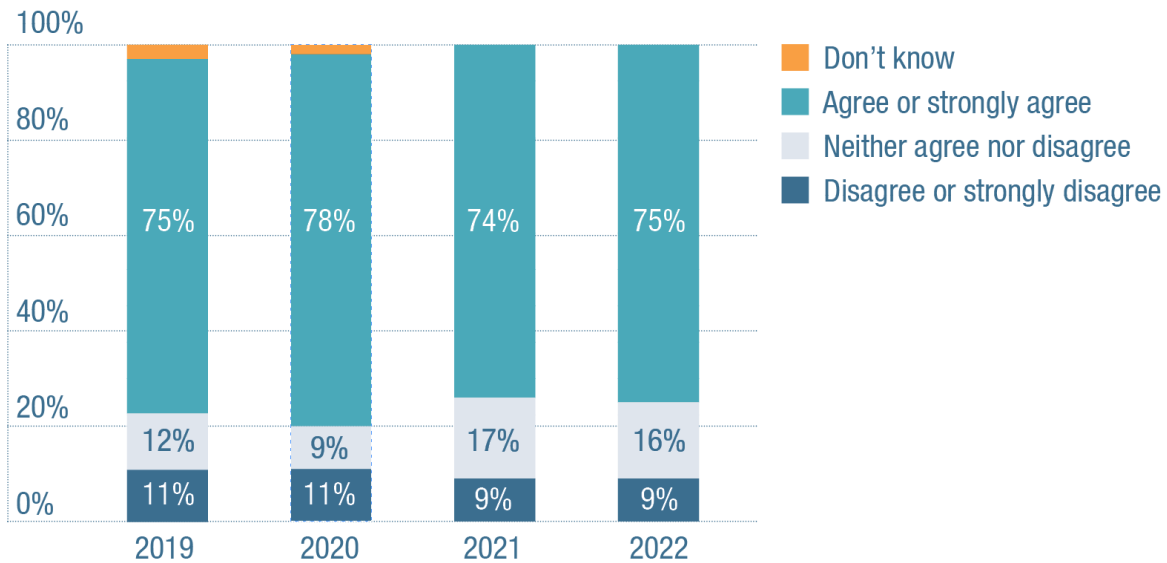
⁴ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

⁵ Empathia Group (2022) [Board members of NDIS providers need to see these 2022 results](https://empathiagroup.com.au/board-members-of-ndis-providers-need-to-see-these-2022-results) accessed 8 December 2022, <https://empathiagroup.com.au/board-members-of-ndis-providers-need-to-see-these-2022-results>

⁶ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

cent agreed. Respondents agree that helping people understand and navigate the scheme is taking them away from service delivery.

Figure 3: Perception of the NDIS environment – helping people understand and navigate the scheme is taking us away from service provision



At a time when demand clearly outstrips supply and workforce shortages across most roles are impacting the sector, participants can little afford to have support providers distracted by helping people understand and navigate the NDIS.

More generally the report indicates that there is a sense of real and growing optimism about the new federal government’s NDIS reforms. Some 43 per cent of respondents believe that policy changes are heading in the right direction, compared to just 25 per cent last year.

‘We are looking forward to a change in direction from Minister Shorten – however, it is still early days.’

Tas large not-for-profit (2022 NDS State of the Disability Sector Report⁷)

High levels of pessimism in 2021 have turned into greater optimism that NDIS policy reforms are heading in the right direction in 2022. Up from 25 per cent last year (the lowest level ever recorded), 43 per cent of respondents agreed or strongly agreed that NDIS policy reforms were heading in the right direction. However, seen over a longer

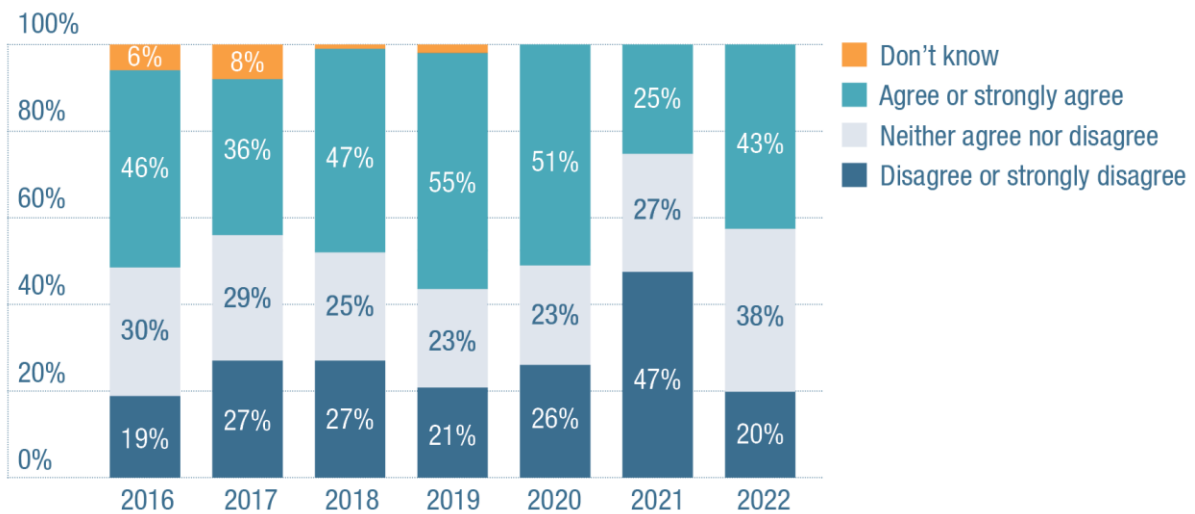
⁷ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

period, the 2022 results are returning to pre-pandemic levels, which have not been higher than 55 per cent between 2016 and 2021.

'I am hopeful things will improve under the new government – early indications are positive, but I fear operationalising good intent will take time.'

Vic large not-for-profit (2022 NDS State of the Disability Sector Report⁸)

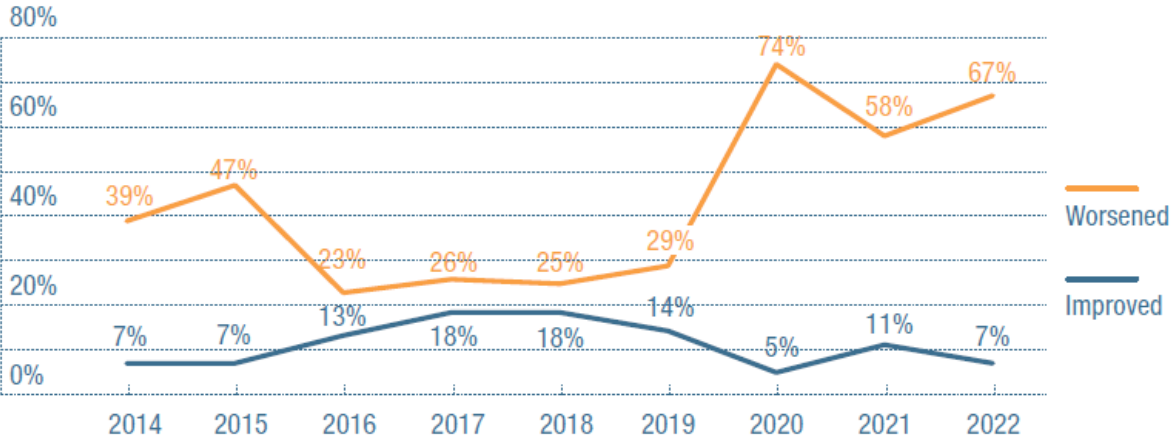
Figure 4: Perception of the NDIS environment – NDIS policy reforms are heading in the right direction



That positivity is tempered, however, with a profound pessimism about the Australian economy. 67 per cent of respondents believe that conditions have worsened, and 36 per cent expect to make a loss in the coming year.

⁸ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

Figure 5: Operating conditions in the wider Australian economy



Finally, this year the report identified that while the disability sector wants and needs more reform, it is also suffering from change fatigue. Far too many leaders have spent far too much time dealing with never-ending NDIS changes. And far too many disability workers feel exhausted by the challenge of constantly learning new systems and the complex administrative sagas that each tend to involve.

4.0 Relevant Issues

In his review of the NDIS, David Tune AO PSM, acknowledged that the implementation of the NDIS has not been smooth,⁹ and it is evident that the pressure of quickly rolling the scheme out across Australia has directly impacted the NDIA’s ability to provide a consistent, effective and high-quality service delivery offering. Correspondingly, the Disability Royal Commission has highlighted experiences of people with disability where the NDIS did not meet their expectations, both in its design and implementation.¹⁰ Some people said that in their view the NDIS’s emphasis on giving people with disability choice and control was undone because the NDIA acted as ‘gatekeeper’ on how people with disability live their lives. The Commission has regularly heard the systemic issues within the NDIS, that individual’s funding is inadequate for their needs, that the appeal process is difficult to navigate, and the NDIS does not support choice and control for

⁹ Tune, D (2019), Review of the National Disability Insurance Scheme Act 2013; Removing Red Tape and Implementing the NDIS Participant Service Guarantee

¹⁰ Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Interim Report, October 2020 © Commonwealth of Australia 2020

<https://www.disability.royalcommission.gov.au/publications/interim-report> Accessed 10 November 2022

people with disability, or quality service provision, and reinforces a sense of disempowerment for participants in the scheme.

NDS members have conveyed that participants and their families are in a constant battle attempting to gain access to the NDIS and adequate supports and funding due to the adversarial, combative and hostile culture within the Agency. There is a sense of fear and intimidation and this 'power over' approach compounds negative effects for those for people with disability, particularly people from backgrounds that discourage questioning authority, or trauma backgrounds. It is essential that the culture of the NDIA move towards transparency and collaboration, restoring trust in the Scheme with key stakeholders, rather than the pessimistic and adversarial relationship that currently exists.

In consultation with members, NDS have identified several issues that speak directly to the culture, capability and performance of the NDIA, these include:

- Pricing
- Planning, systems and processes
- Partnerships and relationships
- Data and innovation
- Communication
- Managing change and reform
- NDIA Workforce capability

4.1 Pricing

Recommendation One

Ensure that the NDIS delivers on its vision by establishing fair and transparent pricing mechanisms that are fit for purpose and support positive participant outcomes.

Why is this important?

Regular NDS polling¹¹ indicates that economic viability is a major concern for disability service providers, with many members facing challenging budget situations. Day services are experiencing challenges with the shift to the new pricing model, and reports of some participants who have chosen not to return to services after the pandemic lockdowns. Short term measures such as JobKeeper payments and one-off NDIS

¹¹ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

funding have been welcome, but do not address the underlying multiple pressures impacting the market.

While the recent increase to the pricing of some support categories was very welcome, the underlying hourly rate still does not adequately reflect the large amount of administration required to operate under the Scheme. Inadequate NDIS prices pose a risk not only to individual disability service providers, but to the Scheme as a whole. Concerningly, NDS's State of the Disability Sector Report based on the 2022 Annual Market Survey reflected a sector less confident than ever in their capacity to operate within current NDIS pricing and funding approaches, with 59 per cent of providers concerned they cannot continue to provide NDIS services at current prices. This is even more the case in remote and very remote areas and other thin markets where cost pressures are more intense.

A mechanism similar to the Independent Health and Aged Care Pricing Authority (IHACPA) that supports responsive pricing with the aim of achieving sustainable and efficient services is required. Current arrangements that have prices set by the NDIA involve a conflict of interest. The NDIA should be trying to ensure there is a vibrant market for high-quality supports, but it also has a strong agenda on constraining costs, as evidenced by the public debate on the sustainability of the NDIS.

In passing the legislation to enable the IHACPA, government recognised the importance of an independent assessment of costs and the provision of costing and pricing advice on aged care. Prices for NDIS supports should also be determined by an independent body.

NDS members believe that a new NDIS price setting body outside of the Agency will allow welcomed transparency for service providers, participants and taxpayers to contribute to how prices decisions are made, increase the emphasis of service quality, and plan for eventual NDIS price deregulation.¹²

For a complex system to effectively operate in a market-based approach, it is reliant on informed and capable consumers. In the case of the NDIS, participants struggle to have sufficient information and capacity to be able to make informed choices to drive a market-based approach and providers and for some participants with more complex needs or who operate in remote and very remote areas, the individualised approach of the NDIS leads to fragmentation of the system and services, and to poorer outcomes.

¹² Aruma Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 10 November 2022
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

Other ways of commissioning supports for participants in thin markets also need to be considered. These approaches need to be nuanced, account for the unique characteristics of the 'market' and support the sustainability of ongoing support provision rather than a one-off, short-term intervention that solves an immediate issue but does not create longer term outcomes. Where these approaches are aimed at supporting remote communities, the approach needs to be co-designed with the community and the impact of any commissioning process on the community 'support ecosystem' considered.

4.2 Planning, systems and processes

Recommendation Two

Establish the necessary mechanisms to include providers as a partner in co-design activities undertaken by the NDIS and government.

Why is this important?

NDS's submission to the *National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2021* supported the amendment to the principles proposed but requested a critical addition: that the important role that service providers have in delivering the supports purchased by participants should be acknowledged by including them as a partner in co-design activities undertaken by the NDIS.¹³ Too often, provider implications are not considered in decisions and policies of the NDIA to the detriment of both participant choice and the efficient and effective operation of the Scheme. Including providers and utilising their experience (accrued over many years) in co-design activities will deliver better outcomes for participants, families, and carers, the NDIA, as well as providers.

Providers should be specifically named in co-design processes as they bring pragmatic and practical expertise in the delivery and design of services, which is essential to delivering a system that works. Providers are unique in the experience that they bring to the table to design service systems effectively and efficiently.

The current 'inform' engagement approach is one-way, from the NDIA to providers. It is vital that the NDIA engage in authentic do-design as this is the most effective engagement methodology to seek expertise of stakeholders and understand experience from a variety of perspectives, to find and test solutions, and to manage competing values or priorities.

¹³ National Disability Services (2021) Victoria, Submission to the NDIS Amendment National Disability Insurance Scheme Amendment (Participant Service Guarantee and Other Measures) Bill 2021, accessed 1 December 2022, <https://www.nds.org.au/index.php/policy-library/nds-submission-national-disability-insurance-scheme-amendment-participant-service-guarantee-and-othe>

Recommendation Three

Review the NDIA Engagement Framework and Co-design Steering Committees to leverage the experience and expertise of service providers.

Why is this important?

The current system fails to provide the conditions to enable it to flourish. It is hard to escape the conclusion that the pricing arrangements we have now, together with a general sense of policy uncertainty, have been making it extremely difficult for providers to think far ahead – let alone plan for, and invest in, the future. Nearly half of respondents (48 per cent) in our State of the Disability Sector survey agreed or strongly agreed that their boards and leadership teams were finding it difficult to develop strategies and set a direction in the current policy and operating environment.¹⁴ To put it simply, it is hard to move forward when you spend so much time and effort on simply staying afloat. This is a problem because the bar is rising all the time. Participants and their families expect services to improve every year – and, indeed, this is what they deserve.

Whilst the predominant focus in reviewing the culture and capability of the NDIA is rightly on the experience of people with disability, to develop a truly effective Scheme it is also important to consider the experience of the other key stakeholders involved in the system. The consideration of the lens of service providers (the administrative burden of complex, inefficient processes, and the financial impact on sustainability) will help to address waste and drive efficiency throughout the Scheme.

Often reference is made to the market and providers, but there is insufficient focus on the provider experience of interacting with the current NDIA system which is administratively burdensome and costly, full of inefficiencies and waste, inappropriately complex and not assisting the delivery of efficient outcomes for participants. Consequently, for the effective implementation, performance and administration of the NDIS, it is essential to examine providers' experience of the system and its impact on their ability to innovate and deliver new services and supports.

It is the view of NDS members that the Co-design Advisory Group and any other relevant co-design initiatives and projects should include NDIS providers and their peak representative groups to adequately represent a key stakeholder in the Scheme's design, implementation and administration.

¹⁴ National Disability Services (2022) Victoria, State of the Disability Sector 2022, accessed 1 December 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report>

4.3 Partnerships and relationships

Recommendation Four

Support the development of a Provider Service Charter and Provider Guarantee in partnership with NDIS providers and their peak representative groups.

Why is this important?

The NDIA Participant Service Charter sets out what participants can expect from the Agency and Partners in the Community organisations. It provides overall principles for the way in which the NDIA will interact with participants, and clear service standards and timeframes. These are included in the legislated Participant Service Guarantee. NDS Members have voiced the need for a Provider Service Charter and Provider Guarantee to guide interactions between the service sector and the NDIA.

The Queensland Productivity Commission Final Report 'The NDIS Market in Queensland', supports the recommendation that there is a need to establish a framework similar to the Participant Service Guarantee for engagement between providers and the NDIA.¹⁵

Recommendation 12 [7] in the Report states:

To strengthen provider and investor confidence in the NDIS market by reducing policy and regulatory uncertainty and improve regulator performance standards, the Queensland Government should propose that the Australian Government introduce a Provider Guarantee. The Provider Guarantee encompasses the activities of the NDIA, the NDIS Quality and Safeguards Commission and key policymaking bodies.

The Provider Guarantee should:

- be based around a set of principles to which NDIS regulator behaviour will adhere
- include a set of regulator service standards the NDIS regulators will be required to meet.

The accountability mechanism around the Provider Guarantee should:

- rely on public reporting and transparency as an enforcement mechanism

¹⁵Queensland Productivity Commission (2021), The NDIS market in Queensland: Final Report © Queensland Productivity Commission 2021 accessed 20 November 2022 <http://www.treasury.qld.gov.au/queenslands-economy/office-of-productivity-and-red-tape-reduction/former-queensland-productivity-commission>

- minimise compliance costs for the institutions involved by having service guarantees and performance indicators integrated within each institution's performance reporting framework
- include the regular publication of a single document showing performance against the full range of service guarantees, with the document discussing any reasons for performance shortfalls and actions to be undertaken.

The principles within the Participant Service Guarantee (transparent, responsive, respectful, empowering, connected) could be adjusted to guide good practice and establish transparent expectations for engagement between providers and the NDIA.

4.4 Data and innovation

Recommendation Five

Support and resource the development of a robust marketplace of disability service providers that is innovative and keeps pace with demand and meets the evolving needs of participants.

Why is this important?

Concerningly providers report that current NDIA processes do not support investment in innovative service models. For the first time in 2021, NDS included questions related to the innovation, data and research in our annual State of the Disability Sector survey. Across 2021 and 2022 the issue remains a major source of concern, with only 11 per cent (12 per cent in 2021) of respondents agreeing or strongly agreeing that, 'taken together, NDIS Pricing and Regulation are conducive to providing innovative services that respond to Participant needs'. Over half (53 per cent) disagreed or strongly disagreed they have access to the quantity of implementation-ready research they need to develop and deliver evidence informed services.

NDS members have cited the need for clear, transparent, accessible data about the NDIS. There is a significant amount of data within the system from payment and package data held by the NDIA to service, goal and outcome data held by providers. Currently the data is not held transparently and is difficult to access. Work currently occurring to develop a National Disability Data Asset will go some way to addressing this issue. However, it will take some time for this and other positive developments such as the National Disability Research Partnership to make a positive difference. Increased access to currently available data will enable the service sector to innovate and plan adequate support offerings at a local level.

4.5 Communication

Recommendation Six

Communication around significant changes to the NDIS includes a targeted communication strategy inclusive of service providers.

Why is this important?

Effective and transparent communication with people with disability, advocates, providers, and the community is critically important when planning, designing, and implementing improvements and changes to the Scheme. To date untimely, poor, confusing and at times conflicting communication has been a hallmark of NDIA engagement with participants and providers. If the NDIA communication infrastructure is not effective, then even good news and positive reforms will not deliver the desired outcomes.

Providers play a key role in communicating with participants and their families and can assist in translating information for them, however, this can only occur when there is transparency. Providers and participants speak of internal NDIA 'unwritten/hidden rules' which impact planning decisions and outcomes for participants.

A recent example includes changes to the ways in which Supported Independent Living (SIL) funding was allocated across 2021, where with no consultation or clear communication to participants or providers, participants support levels were downgraded from complex to standard. In many cases this change occurred overnight. A survey conducted by NDS in September 2021 revealed that over half (58 per cent) of responding organisations indicated that downgrades from higher intensity to standard support occurred for 20 per cent or more of their SIL participants.¹⁶ Further, providers reported that communication related to these significant changes was poor, with many indicating that they received no direct communication about this change for participants that they were supporting. In considering the impact of this type of decision it is important to note that most SIL supports are shared with other residents. Any change to one participant's plan will have an impact on the support provided to other participants living in the same property.

Providers are not only under pressure financially, but fundamentally do not trust that the NDIA won't change the policy settings or make decisions without consultation and transparency or consider the implications of these changes or that require investment to update basic business processes and systems.

¹⁶ National Disability Services (2021) Victoria, Supported Independent Living Survey Results, <http://www.nds.org.au/index.php/policy-library/supported-independent-living-survey-results-2021>, accessed 9 December 2022

4.6 Managing change and reform

Recommendation Seven

Ensure that changes are communicated clearly, early and allow sufficient time for providers to adjust their systems. Where possible significant changes should be trialled prior to being rolled out.

Why is this important?

The NDIS is a once in a lifetime reform without easy comparisons to guide its development. As such, change is inevitable and welcome. However, as our State of the Disability Sector survey shows, adjusting to constantly evolving and changing policy settings, processes and systems come at a cost. 74 per cent of respondents either agreed or strongly agreed that their leadership teams were spending too much time dealing with changes to the NDIS.¹⁷

Correspondingly the impact of constant change is also felt within the NDIA itself. The recent Australian Public Service Employee Census 2021, Highlights Report for the NDIA reported noteworthy evidence of change fatigue amongst employees within the Agency.¹⁸ Overall, the Census reveals that employees within the NDIA report limited consultation about change, lack of effective change management processes and a low tolerance for trying untested new responses.

To positively influence the implementation, performance, governance, administration, expenditure, capability and culture of the NDIA, changes need to be well thought out, with and examination of potential implications, while enabling innovation through an action-learning approach. Communication will be the key to success.

4.7 Workforce

Recommendation Eight

Invest in capable, competent, and dedicated staff for the NDIA to deliver a consistent, high-quality and sustainable disability service sector.

Why is this important?

Central to the discussion around the capability and culture of the NDIA, is the nature of staff employment. As reported by the Community and Public Sector Union,¹⁹ NDIA

¹⁷ National Disability Services (2022) Victoria, State of the Disability Sector 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report> accessed 1 December 2022

¹⁸ Australian Public Service Commission (2021) APS employee census Highlights report NDIA <https://www.ndis.gov.au/media/2069/download>, accessed 5 December 2022

¹⁹ Community and Public Sector Union (no date), NDIA. Your stories. © CPSU Community and Public Sector Union https://www.cpsu.org.au/CPSU/Content/News/NDIA_workloads_stories.aspx, accessed 7 December 2022

workers across the country have been reporting unreasonable workloads within the agency and how it has impacted their ability to work well.

*“Four supervisors in 6 months: I’ve taken 3 months off due to work, stress related. I used my own personal leave. When I wanted more leave, it was denied. My stress is more related to being a new employee and not receiving appropriate training and support. I have had four supervisors in 6 months.”*²⁰

*“This is not sustainable: My APS 5 workload (which was already at a full level) has more than doubled in the past 6 months. It is impossible to complete this workload in my normal full-time hours.”*²¹

NDS members support the view that the work of the NDIA should be conducted by a body of permanent staff dedicated to the mission of the Agency, with the numbers, skills, and training to understand and succeed in their tasks.²² To achieve this, a review of the organisational structure NDIA services is essential to ensure that there is a sustainable workforce, with sustainable workloads and clear positions descriptions that are well understood and respected across the organisation.

Recruitment and retention

NDS members insist on a review of recruitment and retention practices at the Agency, including a review of career pathways and induction practices. Staffing numbers within the NDIA and partnering community agencies are inadequate. The high turnover of staff impacts on participants and providers trying to engage effectively with Agency staff and Partners in the Community, and this is due, in part, to a time pressured and casualised NDIA workforce.²³

Overall, there is the general issue of staff not having relevant expertise for their roles.²⁴ The overreliance on individual contractors and labour-hire employees at the NDIA has been a consistent issue for some years. While there has been a recent and welcome increase in APS staffing, there has not been a corresponding drop in the number of labour-hire employees. This results in insecure working conditions, short-term contracts, large turnover, double handling, wasted investments and differentials in pay. This under

²⁰ ibid

²¹ ibid

²² The Public Interest Advocacy Centre Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions, accessed 10 November 2022

²³ Kin Disability Advocacy Inc. Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions, accessed 10 November 2022

²⁴ Disability Advocacy NDS, RIAC, Villamanta DRLS and Leadership Plus Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 10 November 2022 https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

resourcing results in a toxic workplace culture, however, recent census results show very clearly the staff are there for a purpose. They genuinely want the scheme to work and consequently are entitled to better conditions.²⁵

In its Disability Inclusion Plan 2022-25,²⁶ the Agency is committed to being a leader and employer of choice for people with disability with an ongoing commitment to creating an inclusive workplace for all staff. People with disability are drawn to work at the Agency as they are passionate and committed to the Scheme's success. More people with disability and diversities need to be attracted and retained in senior leadership positions. Currently only 5.7 per cent of NDIA Senior Executive Services positions are held by people with disability. In addition to this the Agency needs to be more innovative, including using customised employment models where the Agency works with employees with disability to tailor roles to their individual skills and interests as suggested by the Disability Royal Commission.²⁷

Training and skills development

NDS Members have been clear in the need to strengthen the capability of the NDIA workforce to be understanding and responsive to the needs of people with disability. Agency support for workforce training and development is required to:

- develop the skill level of NDIS staff
- develop nationally consistent information resources to ensure information is disseminated consistently and accurately
- establish a national workforce plan to employ more people with disability in customer service roles
- training/qualifications for people with disability to be accredited local area coordinators and planners.²⁸

Agency staff and Partners in the Community do not currently have satisfactory disability specific skills, knowledge and experience. This negatively effects their ability to support

²⁵ Community and Public Sector Union (no date), NDIA. Your stories, © CPSU Community and Public Sector Union https://www.cpsu.org.au/CPSU/Content/News/NDIA_workloads_stories.aspx, accessed 7 December 2022

²⁶National Disability Insurance Agency NDIA Disability Inclusion Plan 2022-25 © National Disability Insurance Agency <https://www.ndis.gov.au/about-us/careers-ndia/inclusion-and-diversity/candidates-disability#we-lead-by-example> accessed 6 September 2022

²⁷Community and Public Sector Union Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA, accessed 10 November 2022 https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

²⁸Spinal Cord Injuries Australia Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 7 November 2022, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

people with disability to undertake NDIS access, planning and review processes. The NDIA should develop and implement competencies, skills and training for NDIA and partner staff and establishing lived experience positions across all areas of the Agency.²⁹

It is vital that all resources, training and education is co-developed and co-delivered with people with disability, and Agency staff need a sound understanding of a range of disabilities, including displaying confidence in supported decision-making frameworks.³⁰ At a minimum, Agency staff need to be provided with specific and consistent training on appropriate engagement with participants, essential soft skills (e.g., communication, teamwork, problem-solving, time management, critical thinking, decision-making and stress management) and process and systems for the NDIA.

Providers have also noted that staff across the NDIA and Partners in the Community are not able to accurately respond to provider queries. These can be quite technical in nature, relating to specific claiming rules, line items or how providers should respond to guidelines provided by the NDIA. It is common for providers to experience inconsistent answers or advice from NDIA staff. Equipping NDIA staff and developing systems that enable small issues and queries to be resolved at point of contact would be welcomed by providers.

Recommendation Nine

Operate in an accountable and transparent manner and foster a participant-focused approach in collaboration with people with disability.

Why is this important?

The co-design of solutions and improved processes is important for restoring trust in the Scheme. It is vital that all policies are developed in consultation with a diverse range of people with disability, peak bodies and other stakeholder groups.³¹ This is important to challenge the power imbalance held by the Agency, who make important decisions

²⁹ Mental Health Australia, Community Mental Health Australia (CMHA) and the Mental Illness Fellowship of Australia (MIFA) Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 7 November 2022, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

³⁰ Able Australia Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 7 November 2022, https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

³¹ The Public Interest Advocacy Centre Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions, accessed 10 November 2022

about others' lives and ensure the involvement of the people who will be impacted by decisions. To positively impact the capability and culture of the NDIA, there needs to be a renewed focus on an entrenched human rights culture throughout the Agency to ensure the CRPD underpins all decisions and actions.³²

NDS members have been clear on the need for ongoing transparency regarding the NDIA's processes to make funding decisions to assist in effective plan implementation by service providers. The NDIA should broadly shift culture and attitudes among its staff to welcome greater transparency. The current 'cookie-cutter approach' to plans, seems to focus on the sustainability of the scheme to the detriment of the choice and control of participants. The confidence and capacity of participants is systematically challenged. By arguing about plans, ignoring specialist reports, making people go through endless rounds of assessment, reviews, and AAT appeals, the NDIA is undermining the very confidence of the consumer market it says is trying to create. Participants report that there seems to be an underlying presumption of incapacity of people with disability and a distrust of service providers by the NDIA.³³

Concepts such as 'reasonable and necessary' by their very nature are subjective and open to interpretation, yet this is the lynchpin of funding decisions. As noted in the Tune Review, participants and providers continue to report a lack of clarity as to how reasonable and necessary is defined and the evidence required to support planning.³⁴ Recent developments such as the 'Would we fund it?' examples which use case studies to illustrate how Operational Guidelines might apply are useful, but these are not well promoted on the NDIS website and at this stage focus on what would not be funded as opposed to providing clarity on what the NDIS would fund.

Where a person with disability requests explanations to assist them to understand how reasonable and necessary criteria has been applied, or further reasons for a decision that has been made about access to supports, the NDIA should provide these reasons unless there is a strong reason not to do so. This will allow a participant to fully understand the NDIA's position and to evaluate how their case has been considered, as

³² Disability Advocacy NDS, RIAC, Villamanta DRLS and Leadership Plus Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 10 November 2022

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

³³ Ms Heike Fabig Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA accessed 10 November 2022

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions

³⁴ Review of the National Disability Insurance Scheme Act 2013; Removing Red Tape and Implementing the NDIS Participant Service Guarantee, David Tune AO PSM, December 2019

well as the prospects of any appeal.³⁵ Service providers have had to assume the role of pseudo spokesperson for the Agency as there is a lack of clarity in NDIA decisions of support, and explanations for why and how the decision was made.

Quick wins can be achieved by the Agency by ensuring that participants have the same single point of contact within the NDIA wherever possible, ensuring that decision makers have met the participant in person, and that draft plans are approved by the participant prior to being finalised, and providing detailed feedback (evidence on which those findings were based) on reasoning for all funding decisions.³⁶ Additionally, adopting a strengths-based approach to the administration of the Agency and its interactions with participants should ensure all verbal and written communications treat participants with dignity and respect and improve the accountability of NDIS staff for their decisions.³⁷

5.0 Conclusion

NDS provides expert insight into the issues identified by its members with regards to the Capability and Culture of the NDIA. As the recent State of the Disability Sector survey results demonstrate, despite frustrations and poor implementation the sector continues to have faith in the NDIS and stands ready to engage with future reforms.

This Inquiry provides an important opportunity for government and the Agency alike to truly engage with providers as valuable partners in the delivery of the NDIS and use their experience and knowledge to ensure reform contributes to a healthy, supported, sustainable provider sector that is committed to an inclusive Australia where all people with disability live safely and equitably.

The State of the Disability Sector Report outlines the way forward to ensure the NDIS delivers on its promise for all Australians.³⁸

³⁵ The Public Interest Advocacy Centre Submission to the Joint Standing Committee on the National Disability Insurance Scheme inquiry into the Capability and Culture of the NDIA https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Disability_Insurance_Scheme/CapabilityandCulture/Submissions, accessed 10 November 2022

³⁶ Winkler, D., Brown, M., D’Cruz, K., Oliver, S., Mulherin, P. (2022). Getting the NDIS back on track: A survey of people with disability. Summer Foundation <https://www.summerfoundation.org.au/ndis-participants-survey>, accessed 5 December 2022

³⁷ Ibid

³⁸ National Disability Services (2022) Victoria, State of the Disability Sector 2022, <https://www.nds.org.au/about/state-of-the-disability-sector-report> accessed 1 December 2022

- *Listen to providers:* We encourage government to engage with providers and draw on their expertise to develop NDIS reforms and a new workforce strategy, focusing on where quick wins can be achieved
- *Talk to providers:* As reforms and improvements are identified, the sector will need support to implement them. This will require clear communication to participants and providers, appropriate timeframes and resourcing, and mitigation of any unintended consequences.
- *Don't just talk:* While providers welcome the potential of the NDIS Review to improve the Scheme and address interface issues, their support will ultimately rely on seeing these plans turn into action
- *Keep reviewing the cost model:* While the price increases announced in June 2022 were welcome, it was a catchup payment. Economic conditions remain challenging. The cost model needs to be continually reviewed to reflect wage pressures, changes to the SCHADS award, adequate training, and support and supervision needs
- *Cut red tape:* Reduce duplication of reporting between regulators, cut unnecessary red tape that reduces the effectiveness of services without improving standards, and take steps to address the uneven playing field between registered and unregistered providers.
- *Keep it simple:* The sector wants reform but is fatigued by change. The NDIS Review team should ensure that solutions simplify the processes for providers, who have limited resources to engage with the review and contribute their practical expertise. Reforms will need to be progressively implemented to maintain momentum.

NDS and its members welcome the opportunity of this Inquiry and look forward to working with the Joint Standing Committee to achieve a NDIS which is vibrant, innovative and delivers the right supports to people with disability to meet the original intent of the Scheme.

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Appendix 1

The 2022 NDS Annual Market Survey was conducted by the Centre for Disability Research and Policy at the University of Sydney. This was the ninth iteration of the survey over the last ten years, and the results identify both growing optimism and residual uncertainty in the market, in part related to the COVID-19 pandemic.

The Annual Market Survey received 364 responses from across Australia, 96 per cent of whom were registered NDIS service providers. Three-quarters were from not-for-profit organisations. Twenty-four per cent (24 per cent) of the organisations were established in 2014 or later (i.e., in the NDIS era). Of the respondents:

- Four percent were sole traders
- Thirty-three percent had less than 50 people in their organisation
- Thirty-five percent had 50-199 people in their organisation
- Twenty-three percent had 200-999 people in their organisation
- Five percent had over 1,000 people in their organisation.

Incomes ranged, with

- Seventeen percent of organisations having an income of less than \$1m (i.e., Were 'very small')
- Twenty-four percent having an income between \$1m and \$5m ('small')
- Thirty-five percent having an income between \$5m and \$20m ('medium')
- Twenty-four percent having an income over \$20m ('large').

A copy of the State of the Disability Sector 2022 report has been included with this submission.