National Disability Insurance Scheme

WESTERN AUSTRALIAN  
MARKET REVIEW

Issues Paper

February 2019

© National Disability Insurance Scheme Launch Transition Agency 2019

| Issues Paper |
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| The NDIA has released this Issues Paper to assist individuals and organisations to prepare submissions to the Review. It contains and outlines:   * the scope of the Review * matters about which the NDIA is seeking comment and information * how to make a submission.   Individuals and organisations should not feel that they are restricted to comment only on matters raised in the Issues Paper. The NDIA wishes to receive information and comment on issues which individuals and organisations consider relevant to the Review’s terms of reference. Key date  |  |  | | --- | --- | | Due date for submissions | **Sunday 31 March 2019 midnight AWST** |  Submissions can be lodged  | Email: | [WAMarketReview@ndis.gov.au](mailto:WAMarketReview@ndis.gov.au) | | --- | --- | | By post: | Western Australia Market Review  National Disability Insurance Agency  GPO Box 700  Canberra ACT 2601 |  Contacts  | Administrative and other matters: | NDIS Contact Centre  Open Monday to Friday  8am – 8pm (local time) | 1800 800 110  [enquiries@ndis.gov.au](mailto:enquiries@ndis.gov.au) | | --- | --- | --- | |  |  | | | Website: | <https://www.ndis.gov.au/understanding/ndis-rollout/western-australia/wa-market-review> | | |

### Terms that we use:

|  |  |
| --- | --- |
| **Acronym** | **Full name** |
| EBA | Enterprise Bargaining Agreement |
| IPR | Independent Pricing Review |
| MMM | Modified Monash Model |
| NDIA | National Disability Insurance Agency |
| NDIS | National Disability Insurance Scheme |
| SCHADS | Social, Community, Housing and Disability Sector Award |
| WA | Western Australia |

Contents

[Task and approach 6](#_Toc1987108)

[How you can contribute to this review 7](#_Toc1987109)

[The National Disability Insurance Scheme 9](#_Toc1987110)

[How does the Scheme operate? 9](#_Toc1987111)

[Why does the NDIS regulate prices? 10](#_Toc1987112)

[How does the NDIA regulate prices? 11](#_Toc1987113)

[Special NDIS Pricing Arrangements 12](#_Toc1987114)

[Issues 16](#_Toc1987115)

[Existing Western Australian service delivery models 16](#_Toc1987116)

[Costs of delivering disability supports in Western Australia 16](#_Toc1987117)

[Attachment A – Terms of Reference 19](#_Toc1987118)

[Overview 19](#_Toc1987119)

[Scope of the Review 19](#_Toc1987120)

[Process and timing 20](#_Toc1987121)

# Task and approach

The National Disability Insurance Scheme (NDIS) Western Australia Market Review (‘the WA Market Review’) has been established by the Pricing Reference Group of the National Disability Insurance Agency (NDIA) to examine whether the current price controls and other market settings that apply to the NDIS, including the recommendations of the NDIS Independent Pricing Review[[1]](#footnote-2), are appropriate for Western Australia, or whether they should be modified.

The WA Market Review’s terms of reference are at Attachment A.

The three questions at the heart of this review are:

* whether the NDIS’s existing price controls and other market settings can accommodate existing Western Australia service delivery models (including innovative support options);
* whether the NDIS’s existing price controls and other market settings would support the sustainable, efficient delivery of disability goods and services in Western Australia; and
* whether transitional arrangements are required to allow providers of disability supports in Western Australia to adapt their business models to the NDIS’s price controls and other market settings.

In examining these issues, the review intends to examine, through research and consultation with industry, community and government stakeholders, the state of the markets for the delivery of disability goods and services in Western Australia, including any substantial differences from the markets for the delivery of disability goods and services in other jurisdictions.

In particular, the review is interested in whether the existing NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide, can accommodate existing Western Australian service delivery models (including innovative support options) that have been proven to be efficient and effective, and what modifications, if any, to the NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide, are required to accommodate existing proven Western Australian service delivery models.

The review is also interested in whether any material differences exist in the cost of delivering disability goods and services in Western Australia, relative to other jurisdictions, and whether those differences are likely to be sustained or transitory. The review is therefore seeking evidence on:

* labour costs in Western Australia, relative to other jurisdictions;
* the costs of delivering disability goods and services in Western Australia, and in remote and very remote areas of Western Australia, relative to other jurisdictions;
* the existing level of competition in the markets for the delivery of disability goods and services in Western Australia, and the efficiency of providers in those markets, relative to other jurisdictions; and
* benchmarks for disability goods and services from related sectors in Western Australia (e.g. motor accident insurance; aged care), relative to other jurisdictions.

In framing its recommendations, the review will be cognisant of the objects and principles of the NDIS set out in the *National Disability Insurance Scheme Act 2013*, including that the NDIS should:

* support the independence and social and economic participation of people with disability;
* enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports;
* facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability;
* promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community;
* adopt an insurance based approach, informed by actuarial analysis, to the provision and funding of supports for people with disability; and
* be financially sustainable.

The review was announced in December 2018 and will deliver recommendations to the NDIA’s Pricing Reference Group, for implementation from 1 July 2019. The review will consult widely. It will undertake stakeholder visits, conduct workshops, and invite submissions and comments from stakeholders. An Advisory Group of providers and other stakeholders has been established in consultation with National Disability Services (WA).

## How you can contribute to this review

This issues paper is intended to assist you to prepare a submission to the WA Market Review. It sets out some of the issues and questions the review has identified as relevant at this early stage of the study. You do not need to comment on every issue raised in this paper and you are free to raise any other issues or ideas that are relevant to the terms of reference.

Submissions may range from a short note outlining your views on a particular topic to a much more substantial document covering a range of issues. Where possible, you should provide evidence, such as relevant data and documentation, to support your views. A brief overview of the nature of your organisation, the number of employees and participants, and the types of services you offer, and the locations in which you operate would be helpful.

Any information that you consider to be of a confidential nature should be clearly marked or identified as confidential. The NDIA will not disclose such confidential information to third parties, other than advisors or consultants engaged directly by the NDIA, without first providing you with notice of its intention to do so, such as where it is compelled to do so by law. Where material is not specifically marked as confidential, the NDIA will treat the material as public and may distribute it to third parties without consulting with you.

Submissions can be lodged via email or post.

| Email | [WAMarketReview@ndis.gov.au](mailto:WAMarketReview@ndis.gov.au) |
| --- | --- |
| Post | Western Australia Market Review National Disability Insurance Agency GPO Box 700  Canberra ACT 2601 |

Please send submissions for the WA Market Review by **midnight AWST Sunday 31 March 2019.**

# The National Disability Insurance Scheme

The market for disability goods and services in Australia is undergoing significant reform with the phased creation, commencing on 1 July 2013, of the National Disability Insurance Scheme (NDIS, “the Scheme”), which is jointly funded by the Australian Federal government (“the Commonwealth”) and the governments of the eight States and Territories from general taxation. The NDIS operated as trial basis in defined regions between 1 July 2013 and 30 June 2016 and is transitioning to full Scheme from 1 July 2016 to 30 June 2019.

The NDIS represents a once-in-a-generation social and economic reform. Its focus on improved outcomes will positively impact the lives of hundreds of thousands of participants and their families and carers. Participant choice and control are core features of the NDIS’s design. In this new market-based system, participants work closely with staff to determine a plan that focuses on the specific goals they wish to achieve. In this way, participants are empowered to own their goals and aspirations and to have a say in how they attain improved social and economic outcomes.

The NDIS aims to create an efficient and sustainable marketplace through a diverse and competitive range of suppliers who are able to meet the structural changes created by a consumer driven market. It also aims to ensure that participants have choice and control over their supports and support providers, and to give providers the freedom to attract participants with innovative and high quality products and services. The growth in the market for supports is expected to be substantial in the early years of the NDIS.

The establishment of the NDIS will fundamentally transform the ways in which Australians with qualifying disabilities purchase, and are funded to purchase, the goods and services that they need to mitigate or alleviate the activity limitations and participation restrictions that arise as a result of their qualifying impairments. The historical system of budget-capped, program-based, primarily State/Territory government funded, managed and (often) delivered schemes will be replaced by a national no-fault insurance based approach. When fully rolled out, the NDIS will be supporting about 460,000 people or about two per cent of the Australian population, and its annual expenditure will account for a little over one per cent of Australia’s GDP ($22 Billion).

Western Australia joined the national NDIS in July 2018. The NDIS is continuing to roll out on a geographic basis and will be fully rolled out across Western Australia by 2020. By then it is expected to be supporting 39,000 people in Western Australia.

## How does the Scheme operate?

The Scheme provides funding to eligible individuals (“participants”) so that they can purchase, in the open market, the disability related goods and services (“supports”) that they need. It is administered by an independent national government agency, which has responsibility for determining whether or not an individual is eligible for assistance, and the level of that assistance – the participant’s personalised budget.

One of the principal objects of the Scheme is that participants have choice and control over how, and with which providers, they spend their available budgets. If the Agency agrees that the participant has the requisite capacity, then the participant can self-manage their budget, in which case they pay providers directly for the services that they receive and are reimbursed by the Agency from their budget. Participants who are not self-managing can choose to appoint (and use some of the funds in their personalised budget to pay for) a plan manager. In this case, the plan manager pays the providers who deliver services to the participants (with the participant retaining choice of service provider) and is reimbursed by the Agency from the participant’s budget. All other participants have their budgets managed by the Agency. In this case, the participant’s providers are paid directly by the Agency from the participant’s budget, while the participant still chooses their providers and the supports that they purchase.

Where a provider is paid directly by the Agency – that is, where the funding is Agency-managed – the provider is required to be registered with the Agency, meet specified quality and safeguarding standards, and agree to standard terms and conditions of business – including price caps. These restrictions do not apply to providers who are paid directly by self-managing participants or by plan-managers on behalf of participants.

## Why does the NDIS regulate prices?

The NDIA has a role as a market steward of the NDIS market during the transition to a competitive and open market for disability supports, noting that the transition from block funding to a market approach requires careful management; and some of the markets created may require some form of economic regulation, even after the transition is complete. The NDIA’s approach recognises that the operation of the NDIS market is not yet mature and that consumers are adapting to the new market and learning to exercise choice, and to express their individual needs. The matching of providers offering services, and participants wanting supports, is also still evolving.

One of the functions of market stewardship of the NDIS is regulating entry and continued participation in the Scheme of providers of disability supports. Providers need to agree and adhere to the operational terms, system rules and standards. Operational guidelines, safeguards, and other rules help protect market viability and the long term interests of both participants and providers. The NIDS has established Terms of Business that are binding on a registered provider of supports to participants in the NDIS and that ensure providers agree to uphold the objectives of the NDIS and work with participants to achieve individual outcomes.

The NDIS also limits the prices that registered providers can charge for some supports. During transition, price controls are in place to ensure that participants receive value for money in the supports and services that they receive. In the short to medium term price controls are required for some disability supports because the market for disability goods and services is not yet fully developed. Some participants do not have sufficient information, or experience, to make effective choices – participants need information on the quality and price of service to make effective choices about the best provider for them. This means providers have less incentive to improve their services if this information is not available as participants won’t use their power as consumers to ask for these improvements. Participants may also have insufficient incentives to look for alternative providers – certain aspects of the NDIS may mean that participants do not receive the full benefits of switching to lower cost providers and therefore may not actively seek out alternative providers. For example, a participant has less incentive to save money on a given support item if the remaining budget cannot be spent on other products or services;

In a developing markets there can also be a lack of choice of providers coupled with barriers to entry – for example, markets for highly specialised supports may have a small number of providers and high entry costs that act as barriers to new entrants. Participants can also face high costs to switching providers – switching costs are those associated with changing provider or supports, including both financial and social costs. For example, many supports provided under the NDIS are highly personal in nature and so a strong relationship is established with the provider over time. This creates resistance to switching providers and may limit competition.

These market immaturities may lead to higher prices and/or lower quality services for participants. Price limits can help to ensure that prices do not rise too far above the competitive level for providers that have substantial market power, whilst allowing competition to occur between those providers that do not. Price limits are not needed when there is enough competition between providers to encourage efficiency. In this case, prices are set in accordance with costs and providers will meet consumers’ demand for quality and variety. Therefore, the role of price controls should diminish as the NDIS develops and markets for supports become more competitive.

## How does the NDIA regulate prices?

Price controls are part of a broader set of pricing arrangements, which includes definitions of the services subject to price controls, and payment rules. The legislative framework for the NDIS is set out in:

* the *National Disability Insurance Scheme Act 2013* (the [NDIS Act](https://www.legislation.gov.au/Details/C2013A00020)) and the NDIS Rules made under the Act;
* the *Terms of Business for Registered Providers* ([NDIS Terms of Business](https://providertoolkit.ndis.gov.au/sites/g/files/net3066/f/ndis_terms_of_business.pdf));
* the NDIS Support Catalogue; and
* the [NDIS Price Guide](https://www.ndis.gov.au/providers/pricing-and-payment).

### Terms of Business

All registered providers are required to adhere to the Terms of Business. This means that in their dealings with participants who are not self-managing:

* registered providers must adhere to the NDIA Price Guide or any other Agency pricing arrangements and guidelines as in force from time to time.
* registered providers must declare relevant prices to participants before delivering a service. This includes declaring any notice periods or cancellation terms. Participants are not bound to engage the services of the registered provider after their prices have been declared.
* Prices charged to participants must not exceed the price level prescribed for that support in the Pricing Guide.
* Providers cannot charge cancellation fees, except when specifically provided for in the NDIA Price Guide.

In addition, the Terms of Business require all registered providers, regardless of whether funding for the support is managed by the participant, or managed by a registered provider, or managed by the Agency to not add any other charge to the cost of the supports they provide, including credit card surcharges, or any additional fees including any ‘gap’ fees, late payment fees or cancellation fees.

### Support Catalogue

The Support Catalogue sets out clear definitions of all of the supports that providers can supply to participants through the NDIS.

### Price Guide

The NDIA Price Guide is a summary of NDIS price limits and associated arrangements (price controls) as set by the NDIA. It is designed to assist participants and disability support providers, both current and prospective, to understand the way that price controls for supports and services work in the NDIS.

The NDIA sets price controls for certain NDIS supports to ensure NDIS participants obtain reasonable value from their support packages. The price limits in the Guide are the maximum prices that registered providers can charge NDIS participants for specific supports. There is no requirement for providers to charge at the maximum price for a given support or service. Participants and providers are free to negotiate lower prices.

Price controls must be sustainable, which means that efficient providers must be able to recover the cost of delivering high quality disability supports. The NDIA takes into account market risks, when setting price controls to protect against supply gaps and ensure participants receive critical supports. This is important especially in markets that are immature or where there is limited choice for participants. Over time, the need for price controls will reduce, as disability support markets develop and competitive tension increasingly keeps support prices at reasonable levels.

Not all NDIS support items have price limits, and the NDIS Price Guide is not a comprehensive list of all supports that are available to NDIS participants. Instead, the Guide lists the specific supports that have maximum prices, and also sets out other rules and support definitions that are part of NDIA’s market intervention approach.

Where price limits apply, prices charged to participants must not exceed the price limit prescribed for that support in the Price Guide. No other charges are to be added to the cost of the support, including credit card surcharges, or any additional fees including any ‘gap’ fees, late payment fees or cancellation fees unless otherwise stated in the Price Guide.

When claiming, it is the responsibility of the provider to ensure that the claim accurately reflects the supports delivered, including the frequency and volume of supports. Falsifying claims for any aspect of supports delivered, is a serious compliance issue and may result in action against the provider. Providers are also required to keep accurate records of claims, which are subject to audit at any time.

## Special NDIS Pricing Arrangements

In certain circumstances, providers may be entitled to charge for expenses incurred in the provision of supports. These may include certain transport and travel costs, or servicing remote or very remote areas, which are outlined below.

### Regional, Remote and Very Remote Areas

Supports delivered in remote and very remote areas may have higher additional service delivery costs, and may require higher price limits in place to accommodate for this. The Modified Monash Model (MMM) is used to determine regional, remote and very remote areas using a scale from 1-7 based on population size and locality. Participants located in MMM4 and MMM5 areas are classified as ‘Regional’, MMM6 as ‘Remote’, and MMM7 as ‘Very Remote’. Further details on the MMM can be found on the Department of Health’s DoctorConnect website. This website also contains a resource to look up the MMM area for particular locations.

There are separate Price Guides for Remote and Very Remote areas. Price limits are 20 per cent higher in remote areas and 25 per cent higher in very remote areas for some supports. There is no additional loading applied to price limits for delivery of supports in regional areas.

Providers should refer to support price limits based on where the support is delivered, which is not necessarily where the participant lives. For example, if a participant living in a remote location visits a therapist in their capital city, the therapist should not attempt to claim a price that is higher than the price limit for the support in that city. On the other hand, if the therapist was to visit the participant in their local area to deliver the support, then the therapist could claim a price that is within the limit set by the ‘Remote’ Price Guide (i.e. 20% higher).

If local providers are not available, the NDIA may enter into arrangements (and at times contracts) with specific providers for provision of services to more remote regions. The contract with a service provider will specify the cost of travel and any other associated expenses in these areas.

### Provider Travel

Providers of personal care and community access supports can claim travel costs when travelling to appointments in some circumstances.

* Providers may not claim travel costs for the time that a support worker spends travelling from home to the workplace (or first participant) and from the workplace (or last participant).
* Where a support worker travels from one participant appointment to another, up to 20 minutes of time can be claimed against the next appointment at the hourly rate for the relevant support item.
* Where a worker travels from one participant appointment to another in an MMM4 or MMM5 area, up to 45 minutes of time can be claimed against the next appointment at the hourly rate for the relevant support item.

Therapy providers may claim travel costs when travelling to and from appointments:

* For travel to a first participant appointment each day, or for travel from one participant appointment to another, therapy providers can claim up to 20 minutes of time against the appointment they are travelling to, at the hourly rate for the relevant support item.
* If the appointment is in a MMM4 or MMM5 area, therapy providers can claim up to 45 minutes of travel time against the appointment they are travelling to, at the hourly rate for the relevant support item.
* Therapy providers can also claim for return travel from the final appointment in a day.
* In remote areas, therapy providers may enter specific arrangements with participants to cover travel costs, up to the relevant hourly rate for the support item. Providers should assist participants to minimise the travel costs that they need to pay (e.g. co-ordinating appointments with other participants in an area, so that travel costs can be shared between participants).

Providers who intend to claim travel costs from a participant must have the agreement of the participant in advance (i.e. the service agreement between the participant and provider should specify the travel costs that can be claimed).

### Cancellations and “no shows” for scheduled supports

Providers should have business arrangements in place to minimise the risk of cancellations, "no shows” or late changes to the delivery of a scheduled support. Service agreements between participants and providers need to include details of these arrangements including: rescheduling the appointment; notice periods for cancellations and the cancellation fee that can apply; and changes to agreed appointments.

If a participant makes a short-notice cancellation, which is after 3pm the day before the service, the provider may charge up to 90 per cent of the agreed price for the cancelled appointment. A fee may be charged against a participant plan up to 12 times per year for personal care and community access supports. Beyond this threshold, the NDIA will require the provider to demonstrate they are taking steps to actively manage cancellations.

For other cancellations, where the participant has provided notice of cancellation prior to 3pm the day before the scheduled service, providers may not charge a cancellation fee.

Where participants make short-notice cancellations for therapy services, the therapist can charge a cancellation fee up to 90 per cent of the agreed price for the cancelled appointment. Within the period of any service booking between a provider and participant, the total of cancelled appointments charged by the provider must not exceed six hours.

Where a participant fails, at short-notice or without notice, to keep the scheduled arrangement for the support, the provider must make every effort to contact the participant to determine if there is an additional problem (e.g. the person has fallen out of bed and cannot raise an alarm, or there is a sudden breakdown in the informal supports and additional support is likely to be required).

Where there is a specific risk that a participant will frequently make short-notice cancellations for a support due to the nature of a person’s disability or the nature of the support (e.g. behaviour intervention supports), the provider should make individual arrangements to minimise the number of cancellations.

No fee is payable by the NDIA or the participant, for cancellation by a provider or due to the provider’s failure to deliver the agreed supports, unless previously agreed to and documented in the service agreement with the participant.

NDIA does not permit collection of deposits, or money as a bond from participants that a provider would retain in the event of cancellation of a support per the NDIS Terms of Business.

### Other Payment Considerations

This section outlines various other considerations that may be relevant to participants and providers. These should be reviewed when entering into a new service agreement or if there is a significant change in the participant’s circumstances.

* Some elements of a participant’s care may be covered by funds outside the NDIS. These expenses are commonly medical, including those covered by private health insurance or Medicare. These medical expenses are not funded under the NDIS, even if they are related to, or a symptom of the disability. These expenses should be claimed under the relevant health care scheme or insurance policy. Some providers (e.g. therapists) may need to distinguish between the health services and disability supports that they provide to a single client, and make separate payment claims (e.g. claim payments from Medicare for health services, and the NDIS for disability supports).
* Prepayments are generally not required under the NDIS, unless the NDIA has given prior approval to the registered provider. Providers should make claims only for supports that have been delivered. Approval for prepayment may be given for certain assistive technologies where this has been agreed to by the participant.
* Co-payments by the participant are not required; however, where the participant would like a customisation to a support or assistive technology that is not considered reasonable or necessary, they are required to pay for this themselves. These may include an aesthetic customisation to an assistive technology or modifications to a vehicle that are additional to the assistive components.
* Most items are GST exempt, as per Australian Tax Office information about GST and NDIS and the application of section 38-38 of the GST Act. For a small number of items where GST is applicable (for example, delivery fees and building materials), the price is inclusive of GST.
* Participants are generally not required to pay exit fees, even when changing providers part way through a plan. A core principle of the NDIS is choice and control for participants, allowing them to change providers without expense.

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# Issues

## Existing Western Australian service delivery models

A key question for the review is whether the existing NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide, can accommodate existing Western Australian service delivery models (including innovative support options) that have been proven to be efficient and effective, and what modifications, if any, to the NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide, are required to accommodate existing proven Western Australian service delivery models.

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| **GUIDE QUESTIONS**   1. Are there any existing Western Australian service delivery models that cannot be accommodated within the NDIS because of restrictions imposed by the support catalogue, and the price controls and associated rules set out in the NDIS Price Guide? 2. What evidence is there that these service delivery models are efficient, effective and well aligned with the objects and principles of the NDIS? 3. What modifications to the NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide, are required to accommodate these existing proven Western Australian service delivery models? |

## Costs of delivering disability supports in Western Australia

A second key question for the review is whether the NDIS’s existing price controls and other market settings would support the sustainable, efficient delivery of disability goods and services in Western Australia. The review is therefore interested in whether any material differences currently exist in the cost of delivering disability goods and services in Western Australia, relative to other jurisdictions, and whether those differences are likely to be sustained or transitory.

The NDIA currently has different price guides, with typically lower price caps in Eastern states (New South Wales, Victoria, Queensland and Tasmania) and higher price caps in Western states (ACT, Northern Territory, South Australia, Western Australia). For example, the price cap for ‘assistance with self-care activities during daytime weekdays’ differs by 1.8 per cent between the two guides. In Western Australia, providers can charge up to $49.02 per hour, while in New South Wales, Victoria, Queensland and Tasmania the cap is $48.14 per hour. The differences between other prices range from 0-13.5%. For example, House Cleaning And Other Household Activities is capped at $47.04 in Western Australia, while it is capped at $41.43 in New South Wales, Victoria, Queensland and Tasmania.

The Independent Pricing Review that was conducted by McKinsey and Co. for the NDIA Board found that there was no clear rationale for maintaining separate price guides. It found that the disparity between the Eastern and Western price guides appeared to be based largely on legacy arrangements between jurisdictions, rather than on a direct correlation with regional costs. In particular, an analysis of labour costs other than award wages, such as leave entitlements and workers compensation requirements, did not show a consistent difference between the eastern states and western states. The Independent Pricing Review recommended to the NDIA Board that the NDIS should converge the two Price Guides and move towards a single national price guide by 2021. This recommendation was made before Western Australia joined the national NDIS.

Since then, representations have been made to the National Disability Insurance Agency concerning the input costs faced by Western Australian providers of disability goods and services. It has been argued that many Western Australian providers may face additional costs in terms of delivery fees for the equipment that they require because many equipment providers import equipment from overseas into the eastern states to their main distributer and then service providers in Western Australia have to pay the shipment costs for overseas freight and interstate freight to a ‘local distributer’ and then local delivery to our sites. It has also been argued that there are challenges in getting spare parts locally as local distributers carry a limited range of items that are high in demand and many spare parts have to be shipped interstate, which can make small items more expensive and add down time for repairs. There may also be reduced options for trialling equipment – local distributers have a limited range. This is especially challenging in rural and remote.

The review is seeking evidence on:

* labour costs and regulatory imposts (such as workers compensation and leave entitlements) in Western Australia, relative to other jurisdictions.
* the costs of delivering disability goods and services in Western Australia, and in remote and very remote areas of Western Australia, relative to other jurisdictions.
* the existing level of competition in the markets for the delivery of disability goods and services in Western Australia and the efficiency of providers in those markets, relative to other jurisdictions; and
* benchmarks for disability goods and services from related sectors in Western Australia (e.g. motor accident insurance; aged care), relative to other jurisdictions.

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| **GUIDE QUESTIONS** Labour costs  1. What proportion of the Western Australian disability sector workforce is covered by:    1. the Social, Community, Housing and Disability Sector award (SCHADS award), or other national awards;    2. individual Enterprise Bargaining Agreements (EBAs); and    3. individual employment arrangements? 2. Are the hourly rates of pay for workers in the Western Australian disability sector workforce who are covered by EBA substantially different from the SCHADS award? 3. Are the conditions of employment (for example, leave entitlements, shift loadings, breaks, superannuation, minimum shift requirements, minimum weekend callout durations) of workers in the Western Australian disability sector workforce who are covered by EBA substantially different from the SCHADS award? 4. Does the mix of casual to permanent staff in the Western Australian disability sector workforce differ from other jurisdictions? 5. Are there shortages of particular skills in Western Australia, relative to other jurisdictions? 6. What staff utilisation rates are being achieved, and what factors are influencing these results (e.g. travel, training, scheduling, EBA requirements)?  Other input costs  1. Do providers of disability goods and services in Western Australian face higher input costs because of their distance from the other Australian markets  Regulatory imposts  1. Are the costs of regulatory imposts (for example, workers compensation and payroll tax rate) higher in Western Australia than in other jurisdictions? 2. Do regulatory imposts have a relatively larger cost in Western Australia, because providers are smaller than in other jurisdictions?  Competition and efficiency  1. How efficient are providers of disability goods and services in Western Australia relative to other jurisdictions?  Benchmarking against other schemes  1. How do NDIS price caps compare to the prices paid in other sectors in Western Australia that compete for similar services? |

The review is particularly interested in understanding the costs of delivering supports to remote and very remote areas. In particular, the review welcomes submissions concerning those regional areas of Western Australia that face labour shortages but do not qualify as remote or very remote.

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| **GUIDE QUESTIONS**   1. What challenges face providers trying to deliver disability goods and services in remote and very remote areas of Western Australia? 2. Does the geographical classification used by NDIS (Modified Monash Model) appropriately classify the regions of Western Australia into relative cost bands? 3. What amendments are required to the NDIS pricing arrangements to better recognise the costs of delivering services in remote and very remote areas of Western Australia. |

The review is also seeking evidence as to whether transitional arrangements are required to allow providers of disability supports in Western Australia to adapt their business models to the NDIS’s price controls and other market settings.

# Attachment A – Terms of Reference

## Overview

1. On 12 December 2017, the Prime Minister and the Premier of Western Australia announced a new Bilateral Agreement for Transition to the National Disability Insurance Scheme (NDIS) in Western Australia.
2. As part of this transition, the National Disability Insurance Agency (NDIA) will review existing price controls and other market settings to determine whether they are appropriate for Western Australia. Specifically, the review will consider whether existing price controls and other market settings would support the sustainable, efficient delivery of disability goods and services to participants in Western Australia.

## Scope of the Review

1. The review will examine, through research and consultation with industry, community and government stakeholders:
   1. the state of the markets for the delivery of disability goods and services in Western Australia, including any substantial differences from the markets for the delivery of disability goods and services in other jurisdictions, including:
      1. labour costs in Western Australia, relative to other jurisdictions;
      2. the costs of delivering disability goods and services in Western Australia, and in remote areas of Western Australia, relative to other jurisdictions;
      3. the existing level of competition in the markets for the delivery of disability goods and services in Western Australia, and the efficiency of service providers in those markets, relative to other jurisdictions; and
      4. benchmarks for disability goods and services from related sectors in Western Australia (e.g. motor accident insurance; aged care), relative to other jurisdictions; and
   2. whether the existing NDIS support catalogue, and the price controls and associated rules set out in the NDIS Price Guide:
      1. would support the sustainable, efficient delivery of disability goods and services to participants in Western Australia;
      2. are appropriate for Western Australia (e.g. allowances for provider travel); and
      3. can accommodate existing Western Australian service delivery models (including innovative support options).
   3. whether any material differences that currently exist in the cost of delivering disability goods and services in Western Australia, relative to other jurisdictions, are likely to be sustained or transitory.
2. The Review will make recommendations on whether NDIS price controls and other market settings, including the recommendations of the NDIS Independent Pricing Review, are appropriate for Western Australia, or should be modified, including for transitory differences how quickly Western Australian arrangements should converge to those in other jurisdictions.
3. In framing its recommendations, the Review will be cognisant of the objects and principles of the NDIS, as set out in the *National Disability Insurance Scheme Act 2013*, including that the NDIS should:
   1. support the independence and social and economic participation of people with disability;
   2. enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports;
   3. facilitate the development of a nationally consistent approach to the access to, and the planning and funding of, supports for people with disability;
   4. promote the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community;
   5. adopt an insurance based approach, informed by actuarial analysis, to the provision and funding of supports for people with disability; and
   6. be financially sustainable.

## Process and timing

1. The Review was announced in December 2018 and deliver recommendations to the NDIA’s Pricing Reference Group in April 2019, for implementation from 1 July 2019.

Indicative Timeline

|  |  |
| --- | --- |
| **Timeframe** | **Activities** |
| Jan 2019 | Consult and engage with stakeholders and develop discussion paper |
| Feb – Mar 2019 | Release discussion paper and invite responses |
| Apr – May 2019 | Pricing Reference Group considers responses and makes recommendations |
| Jul 2019 | Recommendations are implemented as part of the annual price review cycle for implementation for 1 July 2019 |

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1. McKinsey & Co. (2018). *Independent Pricing Report*, Report for the National Disability Insurance Agency. Available at https://www.ndis.gov.au/providers/price-guides-and-information/independent-pricing-review [↑](#footnote-ref-2)