

# Heads of Agreement between the Commonwealth and NSW Governments on the National Disability Insurance Scheme

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## Preliminaries

1. This historic agreement between the Commonwealth and NSW Governments establishes the full National Disability Insurance Scheme (NDIS) in NSW.
2. The NDIS will deliver better outcomes for people with a disability and their families and carers, by taking a fairer, more sustainable and equitable approach to supporting people with disability.
3. The full scheme in NSW will be implemented by 1 July 2018.
4. The transition to the full scheme in NSW will commence in July 2016 building on the Hunter launch site.
5. The NDIS in NSW will:
  - a. provide all eligible NSW residents with access to a scheme based on insurance principles that guarantees lifetime coverage for participants for the cost of reasonable and necessary disability care and support;
  - b. provide people with disability the choice and control over their disability supports, including specialist, mainstream and community supports; and
  - c. guarantee a sustainable funding model for the provision of disability supports into the future.
6. As the largest State in Australia, the implementation of the NDIS in NSW will provide coverage to around one third of the Australian population, and sets a model which can be replicated in all States and Territories.
7. People with a disability will continue to have access to mainstream services provided by the Commonwealth and NSW.
8. The full NDIS scheme in NSW will build on the lessons from the launch of the NDIS in the Hunter Region of NSW (commencing in July 2013) and in other jurisdictions in

relation to costs, liabilities, service interventions, service delivery models including decision-support and local area coordination and implementation strategies.

## **Key Elements of a National Scheme**

### **Governance**

9. The arrangements for the NDIS launch will continue for the full scheme in NSW. The NDIS will be established under Commonwealth legislation, and will be overseen by a Ministerial Council with representatives from all participating jurisdictions.
10. The Parties support the scheme being administered by a National Disability Insurance Agency (the NDIA). The NDIA will hold all funds in a single pool, manage scheme funds, administer access to the scheme and approve the payment of individualised support packages.
11. The Board of the NDIA will be able to manage its costs and liabilities from year to year including through the development of a reserve and investment of funds.
12. The Ministerial Council is to be the decision-maker on all NDIS policy issues, NDIA Board appointments and NDIS Advisory Council Appointments.
13. The model allows administrative simplicity, provides clarity for scheme participants, and portability of arrangements between participating jurisdictions.
14. The parties will continue to work together, consulting with the Launch Transition Agency and subsequently the NDIA, to settle design and operational matters, as well as the legislation for the scheme, including interoperability with NSW laws.

## **A National Approach to Funding the NDIS**

### **NSW and Commonwealth contributions to scheme**

15. From 2018/19, NSW will contribute its existing available funding for specialist and other disability services and supports. This equates to \$2,692 million in 2018-19.
16. The capped, fixed contribution from NSW, will be escalated at 3.5% from 2018/19 (based on the following escalation parameters: CPI, wages policy (midpoint of the

long term CPI target Reserve Bank of Australia range (2.5%)) and NSW total population growth (ABS data (1 %)), subject to paragraph 29.

17. In addition NSW will also contribute up to a maximum of \$441 million in 2018/19 of capped in-kind services for which it will retain full policy and administrative responsibility. Arrangements to access these services will be agreed with the Agency.

18. The Commonwealth agrees that the NSW Government will determine the appropriate composition of these in-kind services. NSW will outline the composition of in-kind services, and this will reflect the final NDIS design agreed by COAG.

19. In-kind services will not be cashed out, unless NSW determines to at a later date.

20. NSW funding of \$3,133 billion in 2018-19 will pay for client supports:

- a. individualised support packages for Tier 3 participants; and
- b. local area coordinators and Tier 2 referrals.

21. The Commonwealth's funding of \$3,319 billion in 2018-19 will pay for client supports and administration of the scheme:

- a. individualised support packages for Tier 3 participants;
- b. local area coordinators and Tier 2 referrals; and
- c. all administration costs for the NDIA.

22. The NSW contribution is provided on the basis that there will be no adverse impact on GST revenue assessments through the Commonwealth Grants Commission.

### **Funding Mechanism**

23. NSW and the Commonwealth agree to determine the most appropriate funding mechanism for contributing to the Scheme by July 2014.

24. NSW and the Commonwealth agree that the NDIA may keep any underspends that accrue on a yearly basis (to a maximum cap to be agreed between the Commonwealth and NSW) so that the NDIA is able to manage its costs and liabilities from year to year including through the creation of a reserve and by the investment of funds.

## Risk

25. The Commonwealth will fund 100% of the risk for the launch and transition period.
26. The Commonwealth will also assume 100% of the risk for full scheme in NSW from 2018/19 - subject to the review as set out in paragraph 28, noting the Commonwealth is committed to always assuming a minimum of 75% of risk, and conversely NSW is committed to assuming no more than 25% of risk for client support costs as set out in paragraph 20 (except for risk in changes to escalation parameters, as set out in paragraph 29).
27. Both parties agree to costs being managed to reduce risk.
28. In July 2017, the Ministerial Council will set out terms of reference for a Productivity Commission independent review of scheme costs prior to commencement of the full scheme in NSW rollout for COAG consideration. The PC will report no later than 31 December 2017. The review will examine the sustainability of scheme costs, jurisdictional capacity, cost pressures (including wages pressures), changes in the agreed escalation parameters, if efficiencies have been achieved within the scheme and whether there has been any impact on mainstream services. The review will also examine the most appropriate levers to manage any potential cost overruns.
29. In the event COAG agrees to revise the escalation parameters based on the advice of the Productivity Commission review, NSW and the Commonwealth will revise their escalation parameters to the COAG final agreed escalation parameters.

## Conditions

30. The parties agree that the NDIS will be established irrespective of whether any other State or Territory does or does not sign up to the Scheme.
31. In the event that not all States and Territories do sign up to the Scheme, the Commonwealth agrees that NSW will not be disadvantaged.
32. The Commonwealth agrees NSW will not be any worse off from any subsequent agreement with any other State or Territory.
33. Following commencement of the full NDIS, the NSW Government will not provide any residual specialist disability services or basic community care services.

34. The Commonwealth bears full funding responsibility for non-Indigenous people over 65 and Indigenous people over 50 who choose to stay in the Scheme as per the National Health Reform Agreement (rather than moving to the aged care system).
35. The Commonwealth agrees that the first offer of employment for the NDIA should be to appropriately skilled existing NSW Government disability staff.
36. The Commonwealth will establish a transition Taskforce to examine employment issues, including redundancy or other transition issues.

## **NSW arrangements for motor vehicles, work cover and public hospital insurance**

37. NSW provides no-fault lifetime care and support to people who are catastrophically injured in a motor vehicle accident in NSW, and indemnifies the owner and driver of a NSW registered vehicle against liability for an accident causing death or injury caused by their vehicle anywhere in Australia.
38. NSW also hosts a universal no fault WorkCover scheme that provides legislated benefits to workers and their employers in the event of a work related injury or disease, including lifetime care and support where appropriate. NSW also has a unique scheme to compensate NSW workers who have acquired dust diseases such as mesothelioma from occupational exposure to dust. In addition, NSW Treasury Managed Fund self-insurance scheme provides protection for insurable risk for all NSW public hospitals for sums they may be liable to pay as compensation or damages where a person is injured through fault by the hospital or its employees.
39. Such arrangements can, in practice, reflect a subsidy to other States and Territories which do not provide equivalent support and insurance cover for their residents or visitors.
40. The NSW arrangements for motor vehicles, work cover insurance will be considered to satisfy any minimum standards that would be required for all States and Territories participating in the NDIS, unless amended by agreement through the Standing Council on Federal Financial Relations.
41. When the full scheme commences, jurisdictions without equivalent schemes will be responsible for 100% of the costs of their citizens and visitors who enter the NDIS due to disability caused by relevant accidents within their jurisdiction.

42. NSW commits to retaining its current arrangements for managing risk for the treatment of medical injury caused by fault in its public hospitals. The Commonwealth and NSW will continue negotiations, through the Standing Council on Federal Financial Relations, on no fault medical injury coverage.

*Signed for and on behalf of the Commonwealth of Australia by*

*Signed for and on behalf of the State of New South Wales*

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**The Honourable Julia Gillard MP**  
Prime Minister of the Commonwealth of Australia

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**The Honourable Barry O'Farrell MP**  
Premier of News South Wales

December 2012

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**Australian Government**

