

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

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*This Agreement is made BETWEEN the COMMONWEALTH OF AUSTRALIA (Commonwealth) and the STATE OF TASMANIA (Tasmania)*

## **Preliminaries**

1. This agreement between the Commonwealth and Tasmanian Governments outlines the process and commitments to establish the full National Disability Insurance Scheme (NDIS) in Tasmania.
2. The NDIS will deliver better outcomes for people with disability, their families and carers, by taking a fairer, more sustainable and equitable approach to supporting people with disability.
3. The arrangements in this Heads of Agreement will commence in Tasmania in 2016-17, building on the launch commencing from July 2013. Tasmania will remain on funding arrangements consistent with the Bilateral Agreement for NDIS launch between the Commonwealth and Tasmania until 30 June 2019.
4. The NDIS in Tasmania will:
  - a. provide all eligible Tasmanian 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. promote choice and control for people with disability over their disability supports; and
  - c. provide a sustainable funding model for the provision of disability supports into the future.
5. People with disability will continue to have access to mainstream services provided by the Commonwealth and Tasmania.

6. The full NDIS in Tasmania will build on the lessons learned from the NDIS Launch in relation to costs, liabilities, service delivery models including early intervention, decision support and local area coordination and implementation strategies.

## **Key Elements of a full NDIS in Tasmania**

### **Governance**

7. The arrangements for the NDIS launch will continue for the full scheme in Tasmania. The NDIS has been established under the *National Disability Insurance Scheme Act 2013* (NDIS Act 2013) and will be overseen by the Standing Council on Disability Reform (Standing Council).
8. Tasmania and the Commonwealth support the scheme being administered by DisabilityCare Australia (the Agency), the agency established to run the NDIS. The Agency will hold all funds in a single pool, manage scheme funds, administer access to the scheme and approve the payment of individualised support packages.
9. The Board of the Agency will be able to manage its costs and liabilities from year to year including through the development of a reserve and investment of funds.
10. The Standing Council is to be the decision maker on all NDIS policy issues, Agency Board appointments and Agency Advisory Council appointments.
11. The model allows administrative simplicity, provides clarity for scheme participants and portability of arrangements between participating jurisdictions.
12. Tasmania and the Commonwealth will continue to work together, consulting with the Agency, to settle design and operational matters, as well as legislation for the full scheme, including the interoperability with Tasmanian laws.

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

### **Transition years 2016-17, 2017-18 and 2018-19**

13. In 2016-17, 2017-18 and 2018-19, Tasmania will be in transition to full scheme. For this period Tasmania will contribute 59.4 per cent of care and support package costs for an agreed number of eligible participants each year. The Commonwealth will contribute the remaining 40.6 per cent for care and support package costs, and all administration costs for DisabilityCare Australia, as well as funding 100 per cent of package costs for people who turn 65 and choose to remain in the scheme. Tasmania and the Commonwealth will agree the number of eligible participants and total funding by September 2015.

## Full Scheme 2019-2020 onwards

14. For 2019-2020, Tasmania will contribute \$232 million in cash and in-kind services, subject to the process outlined in clause 19.<sup>1</sup>
15. Tasmania will retain full policy and administrative responsibility for in-kind services. Arrangements to access in-kind services will be agreed with the Agency.
16. The Commonwealth agrees that Tasmania will determine by July 2018 the appropriate composition and value of in-kind services. Tasmania will outline the composition of in-kind services, and this will reflect the final NDIS design agreed by COAG.
17. In-kind services will not be cashed out, unless Tasmania determines to do so at a later date.
18. The capped, fixed contribution from Tasmania of \$232 million will be escalated at a rate agreed by COAG following a review by the Productivity Commission (PC) in 2017 or at 3.5 per cent from 2019-2020 (based on the following escalation parameters: CPI, wages policy (midpoint of the long term CPI target Reserve Bank of Australia range (2.5 per cent) and the total population growth (ABS data)), subject to paragraph 28.
19. The total contribution from the States and Territories will be reallocated in 2023 and every five years thereafter following the publication of the Census data in line with each state's share of the total national population. The Tasmanian contribution will be recalculated accordingly.<sup>2</sup>
20. Tasmanian funding will pay for participant supports, including:
  - a. individualised support packages for scheme participants; and
  - b. local area coordinators and other general supports as described at section 13 (2) of the *NDIS Act 2013*.
21. The Commonwealth will contribute a premium on behalf of each citizen of Tasmania to DisabilityCare Australia. For Tasmania, this premium will be around \$245 million in 2019-20, depending on actual scheme costs. In addition, the Commonwealth will cover the full cost of people who turn 65 and chose to remain in the scheme. The actual amount spent by DisabilityCare Australia in each jurisdiction will depend on the number

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<sup>1</sup> This figure is derived from the equivalent Tasmanian contribution compared to the 2018-19 NSW contribution in the Heads of Agreement between the Commonwealth and NSW Governments on the NDIS (\$224 million) escalated by 3.5%. In the event COAG agrees to revise the escalation parameters based on the advice of the Productivity Commission review referred to in clause 28, this contribution will be revised to be consistent with COAG final agreed escalation parameters.

<sup>2</sup> Following the Commonwealth Grants Commission Methodology Review referred to in paragraph 23, jurisdictions may agree that the total contributions from States and Territories will also be reallocated in line with each state's share of the total national population in 2018-19 following the release of the 2016 Census, if that simplifies the GST redistribution implications of the NDIS.

of participants and the actual cost of the scheme in that jurisdiction.

22. The Commonwealth will provide funding for all additional costs for participant supports and administration of the scheme as follows:
  - a. individualised support packages for scheme participants;
  - b. local area coordinators and other general supports as described at section 13 (2) of the *NDIS Act 2013*; and
  - c. all administration costs for the Agency.
23. Tasmania and the Commonwealth agree that the Commonwealth Grants Commission Methodology Review, agreed by the Standing Council on Federal Financial Relations (SCFFR) on 3 April 2013, should:
  - a. determine the most appropriate treatment of disability services in the period during the transition to the NDIS as well as the treatment once the full scheme is operating nationally; and
  - b. give priority to determining the appropriate treatment of the NDIS to allow SCFFR to consider the issue at the time the draft report is received.
24. Tasmania and the Commonwealth agree that the Agency may keep any underspends that accrue on a yearly basis (to a maximum cap to be agreed between the Commonwealth and Tasmania) so that the Agency 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 any costs associated with higher participant numbers, higher per person care and support costs and 100 per cent of DisabilityCare Australia's cash flow risk during the launch and transition period.
26. The Commonwealth will assume 100 per cent of the risk for full scheme in Tasmania from 2019-2020 subject to the review of scheme costs by the PC in 2017, as set out in paragraph 28, noting the Commonwealth is always committed to assuming a minimum of 75 per cent of risk and Tasmania is committed to assuming a maximum 25 per cent risk for participant supports as set out in paragraph 20 (except for the risk in changes to escalation parameters, as set out in paragraphs 28 to 30).
27. Tasmania and the Commonwealth agree to costs being managed to reduce risk.
28. In July 2017, the Standing Council will set out terms of reference for a PC independent review of scheme costs prior to the commencement of the full scheme in Tasmania 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 wage 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 PC review, Tasmania and the Commonwealth will revise their escalation parameters to the COAG final agreed escalation parameters.
30. The Standing Council will commission a similar independent review of scheme costs, escalation parameters and the Agency's operational costs in 2023 and every five years thereafter, for COAG consideration. Should COAG agree to revise the escalation parameters as a result of these reviews, Tasmania and the Commonwealth will revise their escalation parameters to the COAG agreed escalation parameters.

### Conditions

31. In the event that not all States and Territories sign up to the full NDIS, the Commonwealth agrees that Tasmania will not be disadvantaged.
32. The Commonwealth agrees Tasmania will not be any worse off from any subsequent agreement with any other State or Territory and this agreement will be amended to grant Tasmania any improvements negotiated with any other jurisdiction.
33. Following commencement of the full NDIS, the Tasmanian Government will no longer directly fund specialist disability services or basic community care services to those people who are being supported by the NDIS. The Tasmanian Government will, however, continue to provide basic community care services to a range of other people.
34. The Commonwealth bears full funding responsibility for non-Indigenous people over 65 years and Indigenous people over 50 years 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 DisabilityCare Australia should be to appropriately skilled existing Tasmanian Government disability staff.

## **Tasmanian arrangements for lifetime care and support for people who are catastrophically injured**

36. Tasmania provides no fault lifetime care and support to people who are injured in a registered motor vehicle accident in Tasmania, and indemnifies the owners and drivers of Tasmanian registered vehicles against liability for an accident causing death or injury caused by their vehicle anywhere in Australia.
37. The lifetime care and support provided to people with disability by the Motor Accidents Insurance Board will reduce the cost of operating the NDIS in Tasmania.
38. If the arrangements in Tasmania for the lifetime care and support for relevant people injured in motor vehicle accidents are assessed as not meeting the agreed minimum benchmarks by 1 July 2013, for these persons who enter the NDIS the Tasmanian Government will be responsible for 100 per cent of the NDIS-related costs of these persons.
39. Tasmania commits to develop and endeavour to agree and implement nationally-consistent minimum benchmarks for workplace accidents by 1 July 2016. If nationally-consistent minimum benchmarks are not implemented in Tasmania by 1 July 2016, Tasmania will be responsible for 100 per cent of the cost of NDIS participants who are in the NDIS because they are not covered by an injury insurance scheme that meets these requirements.
40. Tasmania commits to retaining its current arrangements for managing risk for the treatment of medical treatment injury caused by fault in its public hospitals. The Commonwealth and Tasmania will continue negotiations, through the SCFFR, on no fault medical injury coverage.
41. Jurisdictions without equivalent schemes will be responsible for 100 per cent of the costs of their citizens and visitors who enter the NDIS due to disability caused by relevant accidents within their jurisdiction.

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

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

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**The Honourable Lara Giddings MP**  
Premier of Tasmania

May 2013

May 2013



**Australian Government**



**Tasmanian  
Government**