

Heads of Agreement between the Commonwealth and Western Australian Governments on the National Disability Insurance Scheme

This Agreement is made BETWEEN the COMMONWEALTH OF AUSTRALIA (Commonwealth) AND the STATE OF WESTERN AUSTRALIA (Western Australia)

Preliminaries

1. This agreement between the Commonwealth and Western Australian Governments outlines the process and commitments to establish the full National Disability Insurance Scheme (NDIS) in Western Australia.
2. The continued roll-out of the NDIS across Western Australia will deliver positive outcomes for people with disability, their families and carers, by taking a fair, sustainable and equitable approach to supporting people with disability.
3. The arrangements in this Heads of Agreement will commence in Western Australia in 2023-24. Western Australia and the Commonwealth governments will negotiate a Bilateral Agreement for transition to detail transition arrangements in Western Australia.
4. The NDIS in Western Australia will:
 - a. provide all eligible Western Australian 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 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.
5. People with a disability will continue to have access to mainstream services provided by the Commonwealth and Western Australia.
6. The full NDIS in Western Australia will build on the lessons from the NDIS trial sites, including the WA NDIS trial sites, and experiences in other jurisdictions in relation to

participant outcomes and experiences, the results of the NDIA Participant and Provider Pathway Review, delivery of the NDIS in rural and remote areas, service delivery models (including decision-support, early intervention and local area coordination), the development of an effective market for disability services, the interface between the NDIS and other services, scheme administration, implementation strategies, service interventions costs and liabilities.

7. The Commonwealth and Western Australia reaffirm their commitment to transition to roles and responsibilities under Schedule F of the 2011 National Health Reform Agreement on 1 July 2018, adjusted for the rollout of the NDIS in WA.

Key Elements of a full NDIS in Western Australia

Governance

8. The NDIS has been established under the *National Disability Insurance Scheme Act 2013* (NDIS Act), and will be overseen by a Ministerial Council with representatives from all participating jurisdictions. The governance arrangements outlined in the NDIS Act will continue for the full scheme in Western Australia.
9. Western Australia and the Commonwealth agree the scheme will be administered by the National Disability Insurance Agency (the NDIA). The NDIA will manage scheme funds, administer access to the scheme and approve the payment of individualised support packages.
10. 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.
11. The Ministerial Council is to be the decision-maker on all NDIS policy issues and will represent the States and Territories in the operation of the NDIS Act. COAG is to be the decision maker in relation to scheme costs and implications for mainstream services.
12. Western Australia and the Commonwealth will continue to work together, consulting with the NDIA, to settle design, local governance and operational matters, as well as legislative amendments for the full scheme, including interoperability with Western Australian laws.

A National Approach to Funding the NDIS

13. From 2023-24, Western Australia will provide fixed funding contribution amounts which will be determined following the next independent review of NDIS costs in 2023, and on the same basis as other States.
14. The contribution from Western Australia will be escalated at 3.5 per cent (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)). In the event COAG agrees to revise the escalation parameters based on the advice of the 2017 Productivity Commission Review into NDIS Costs, Western Australia and the Commonwealth will revise their escalation parameters to the COAG final agreed escalation parameters.

15. The Commonwealth and Western Australia will agree if any in-kind funding is required in 2023-24 onwards, and the basis on which this will be determined.
16. The total contribution from the States and Territories will be reallocated in 2023 and every five years thereafter following the publication of the 2021 Census data. Western Australia's fixed contribution will be calculated at this time.
17. Western Australian funding will pay for participant supports:
 - a. individualised support packages for scheme participants; and
 - b. local area coordinators and other general supports as described by section 13(2) of the *NDIS Act*.
18. 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 by section 13(2) of the *NDIS Act*; and
 - c. all administration costs for the NDIA.
19. Western Australia and the Commonwealth agree that the NDIA may keep any underspends that accrue on a yearly basis 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.
20. Western Australia has been allocated a share of the DisabilityCare Australia Fund. Payment of Western Australia's allocation will be negotiated through a National Partnership Agreement and can only be a reimbursement for costs incurred in relation to the *NDIS Act*.

Risk

21. The Commonwealth will assume 100 per cent of risk for full scheme in Western Australia from 2023-2024 – subject to the reviews of scheme costs by the Productivity Commission in 2017 and 2023 and as agreed by COAG, noting the Commonwealth is always committed to assuming a minimum of 75 per cent of risk and Western Australia's commitment to

assuming a maximum 25 per cent risk for participant supports (except for the risk in changes to escalation parameters, as set out in paragraph 14).

22. Both Parties agree to costs being managed to reduce risk.
23. The Ministerial Council will commission a similar independent review of scheme costs, escalation parameters and the NDIA's operational costs in 2023 and every five years thereafter, for COAG consideration.

Conditions

24. The Commonwealth agrees Western Australia will not be materially or otherwise disadvantaged as a result of a current or future agreement reached between the Commonwealth and any other State or Territory.
25. The Commonwealth agrees Western Australia will not be any worse off from any subsequent agreement with any other State or Territory.
26. Those who are eligible for NDIS supports in Western Australia will not be disadvantaged by any future arrangements during transition and full scheme NDIS in Western Australia, including those in rural and remote locations for whom delivery of NDIS support may pose particular challenges.
27. Following commencement of the full NDIS, the Western Australian Government will no longer directly fund specialist disability services or basic community care services where these supports are funded by the NDIS. The Western Australian Government will, however, continue to provide basic community care services to a range of other people with disability.

Western Australian arrangements for lifetime care and support for people who are catastrophically injured

28. The Commonwealth and Western Australia agree that arrangements in Western Australia for people injured in motor vehicle accidents satisfy the national minimum benchmarks to provide no-fault lifetime care and support for people who are catastrophically injured in motor vehicle accidents in Western Australia.
29. The Western Australian workers' compensation scheme provides no fault compensation, although the benefit structure is not designed to provide 'lifetime care and support' for catastrophic injuries. Common law heads of damage provide for future lifetime care expenses. Western Australia will continue to work towards the national minimum benchmarks for no-fault lifetime care and support for people who are catastrophically injured in workplace accidents in Western Australia.
30. If nationally consistent minimum benchmarks for no-fault lifetime care and support for people who are catastrophically injured in workplace accidents in Western Australia are not

implemented by 1 July 2020, Western Australia will be responsible for 100 per cent of the costs of participants who enter the NDIS due to disability caused by a workplace accident within Western Australia.

31. Western Australia commits to retaining its current arrangements for managing risk for the treatment of medical injury caused by fault in its public hospitals.
32. Western Australia and the Commonwealth will continue negotiations in good faith, through the Standing Council on Federal Financial Relations, on nationally-consistent minimum benchmarks for general accidents (including criminal injury).

Signed for and on behalf of the Commonwealth of Australia by

A handwritten signature in black ink, appearing to be 'P. Gill', written over a horizontal line.

Signed for and on behalf of the State of Western Australia

A handwritten signature in black ink, appearing to be 'Mark McGowan', written over a horizontal line.