

Decision-making Controls for NDIS Participant Plans

National Disability Insurance Agency

© Commonwealth of Australia 2020

ISSN 1036–7632 (Print)

ISSN 2203–0352 (Online)

ISBN 978-1-76033-595-3 (Print)

ISBN 978-1-76033-596-0 (Online)

Except for the content in this document supplied by third parties, the Australian National Audit Office logo, the Commonwealth Coat of Arms, and any material protected by a trade mark, this document is licensed by the Australian National Audit Office for use under the terms of a Creative Commons Attribution-NonCommercial-NoDerivatives 3.0 Australia licence. To view a copy of this licence, visit <http://creativecommons.org/licenses/by-nc-nd/3.0/au/>.

You are free to copy and communicate the document in its current form for non-commercial purposes, as long as you attribute the document to the Australian National Audit Office and abide by the other licence terms. You may not alter or adapt the work in any way.

Permission to use material for which the copyright is owned by a third party must be sought from the relevant copyright owner. As far as practicable, such material will be clearly labelled.

For terms of use of the Commonwealth Coat of Arms, visit the *It's an Honour* website at <https://www.pmc.gov.au/government/its-honour>.

Requests and inquiries concerning reproduction and rights should be addressed to:

Senior Executive Director
Corporate Management Group
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Or via email:

communication@anao.gov.au.



Canberra ACT
29 October 2020

Dear Mr President
Dear Mr Speaker

In accordance with the authority contained in the *Auditor-General Act 1997*, I have undertaken an independent performance audit in the National Disability Insurance Agency. The report is titled *Decision-making Controls for NDIS Participant Plans*. I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website — <http://www.anao.gov.au>.

Yours sincerely



Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

The Auditor-General is head of the Australian National Audit Office (ANAO). The ANAO assists the Auditor-General to carry out his duties under the *Auditor-General Act 1997* to undertake performance audits, financial statement audits and assurance reviews of Commonwealth public sector bodies and to provide independent reports and advice for the Parliament, the Australian Government and the community. The aim is to improve Commonwealth public sector administration and accountability.

For further information contact:
Australian National Audit Office
GPO Box 707
Canberra ACT 2601

Phone: (02) 6203 7300
Email: ag1@anao.gov.au

Auditor-General reports and information about the ANAO are available on our website:
<http://www.anao.gov.au>

Audit team

Freya Mathie
Samuel Painting
Hayley Pennock
Jennifer Zierk
Alexander Wilkinson
Scott Humphries
Joel Smith
Peta Martyn

Contents

Summary and recommendations.....	7
Background	7
Conclusion	8
Supporting findings.....	9
Recommendations.....	10
Summary of entity response.....	10
Key messages from this audit for all Australian Government entities	11
Audit findings.....	13
1. Background	14
Introduction	14
Reasonable and necessary supports	17
Review of the National Disability Insurance Scheme Act 2013.....	19
Rationale for undertaking the audit	19
Audit approach	20
2. Policies and processes for reasonable and necessary supports	22
Has the NDIA established appropriate policies and processes for participant planning?.....	22
Has implementation of participant planning complied with established policies and processes?	34
3. Oversight of reasonable and necessary supports	41
Does the NDIA have appropriate quality assurance processes for participant plans?	41
Do reviews of participant plans and planning processes inform continuous improvement?.....	49
Is there appropriate performance monitoring and reporting for participant plans?	60
Appendices	67
Appendix 1 Entity response	68



Audit snapshot

Auditor-General Report No.14 2020–21

Decision-making Controls for NDIS Participant Plans



Why did we do this audit?

- ▶ Decisions to include reasonable and necessary supports in participant plans require significant judgement from National Disability Insurance Agency (NDIA) staff.
- ▶ Effective controls for decision-making can help to ensure the correct provision of supports and contributes to the financial sustainability of the National Disability Insurance Scheme (NDIS).



What did we find?

- ▶ The NDIA does not yet have appropriate controls to ensure supports in participant plans are 'reasonable and necessary'.
- ▶ While an appropriate control framework had been established, the effective implementation of the controls will provide the NDIA with greater assurance that the supports approved in participant plans are reasonable and necessary.



Key facts

- ▶ Decisions to fund reasonable and necessary supports must be made in accordance with legislative criteria, established by the *National Disability Insurance Scheme Act 2013*.
- ▶ The NDIS roll-out finished on 30 June 2020, with the full scheme in operation from 1 July 2020.



What did we recommend?

- ▶ The Auditor-General made three recommendations to the NDIA. One recommendation was aimed at improving policies and processes, one recommendation was aimed at continuous improvement processes and one recommendation was aimed at performance monitoring and reporting.
- ▶ The NDIA agreed to all three recommendations.

\$16.1 billion

of supports were funded through NDIS participant plans in 2019–20

391,000+

NDIS participants as at June 2020

\$61,643

was the average amount of supports per participant committed through participant plans in 2019–20

Summary and recommendations

Background

1. The National Disability Insurance Scheme (NDIS or the Scheme) replaced existing Commonwealth, state and territory disability support systems with a nationally consistent scheme aimed at providing Australians under the age of 65, who have a permanent and significant disability, with the reasonable and necessary supports they need to live an ordinary life. The NDIS is a nationally based scheme with funding and governance shared amongst all governments. The National Disability Insurance Agency (NDIA or the Agency) holds and manages Scheme funds, administers access to the Scheme and approves payments of support packages based on individual participants' needs.
2. The NDIS provides funding to eligible participants so they can access disability supports and services. The Scheme commenced in July 2013 with a three year trial phase before being progressively rolled out to each state and territory over a four year transition phase from 1 July 2016. 2020–21 is the Scheme's first year of full operation, with the NDIA transitioning to full scheme on 1 July 2020. When fully implemented, the Scheme is expected to benefit around 500,000 Australians.
3. The NDIS care model seeks to invest in appropriate supports over the life of each participant. Eligible participants will develop a plan with the NDIA, which identifies their individual goals and aspirations and the 'reasonable and necessary' supports¹ required to help them achieve these. Plans generally cover a minimum 12 month period. Plans are reviewed with a participant prior to expiry and a new plan is developed. Participants with an approved plan may purchase supports from service providers of their choice.²
4. Participants receive funding for supports — assistance or products that help a person in their daily life and help them to participate in the community and reach their goals — from the NDIA through the provision of a participant plan. The requirements for plans are outlined in section 33 of the *National Disability Insurance Scheme Act 2013* (NDIS Act). A key component of a plan, the statement of participant supports, which is prepared with the participant and approved by the NDIA Chief Executive Officer (CEO) specifies, among other things, any reasonable and necessary supports that will be funded under the NDIS. In making a decision over the funding for reasonable and necessary supports, the CEO must be satisfied of six criteria outlined in subsection 34(1) of the NDIS Act.

Rationale for undertaking the audit

5. The NDIS represents a significant financial commitment by all Australian governments. The NDIS is expected to grow over the next three years to provide support to

1 The criteria for determining if a support is 'reasonable and necessary' are set out in section 34 of the *National Disability Insurance Scheme Act 2013*.

2 Individuals or organisations delivering a support or product to a participant of the NDIS must generally be registered with the NDIS, except for self-managed participants, who may access supports from non-registered providers.

approximately 500,000 Australians with permanent and significant disability. In 2019–20, \$16.1 billion of supports was funded through participant plans.

6. Decisions on the reasonable and necessary supports to be provided to participants under the Scheme are critical to both participant outcomes and Scheme financial sustainability. Financial sustainability is a key objective of the NDIS, and the scope and volume of supports funded through participants' plans is a major cost driver. To manage this cost driver, the supports included in participant plans must be 'reasonable and necessary' as defined in the NDIS Act. Decisions about what are reasonable and necessary supports require the exercise of judgement on behalf of delegated decision-makers. Failure to implement effective decision-making controls could result in:

- inconsistency in the application of the law;
- significantly increased Scheme costs;
- inadequate provision of support to Scheme participants; and/or
- cost-shifting between government programs or to participants.

7. The NDIA's control framework has been subject to two previous ANAO performance audits. Of particular relevance is the ANAO's 2017–18 audit that examined the decision-making controls for NDIS access.³ This audit builds on the work undertaken in the earlier audit to provide assurance of the financial sustainability control framework for the NDIS, by examining decision-making controls for participant plans.

Audit objective and criteria

8. The audit objective was to assess whether the NDIA has appropriate controls to ensure supports in participant plans are 'reasonable and necessary'.

9. To form a conclusion against the audit objective, the ANAO adopted the following high level audit criteria:

- Has the NDIA established and implemented appropriate policies and processes to ensure supports in participant plans are 'reasonable and necessary'?
- Is there appropriate oversight to ensure supports in participant plans are 'reasonable and necessary'?

Conclusion

10. The NDIA does not yet have appropriate controls to ensure supports in participant plans are 'reasonable and necessary'. While an appropriate control framework had been established, the effective implementation of the controls will provide the NDIA with greater assurance that the supports approved in participant plans are reasonable and necessary. Effective implementation of controls will further assist the NDIA to manage risks relating to Scheme sustainability, while ensuring participants are receiving adequate supports.

3 Auditor-General Report No.13 2017–18 *Decision-making Controls for Sustainability — National Disability Insurance Scheme Access*.

11. While the NDIA had established largely appropriate policies and processes for participant planning, the implementation of the policies and processes did not provide the NDIA with appropriate assurance that supports in participant plans are reasonable and necessary.

12. The NDIA does not yet have appropriate oversight mechanisms in place to ensure the supports in participant plans are reasonable and necessary. The NDIA has established some frameworks for oversight and control of decision-making for participant plans; however, to date, this is not systematically leading to enterprise wide actions for improvement and compliance in decision-making.

Supporting findings

13. The NDIA has established largely appropriate policies and processes for participant planning. The NDIA's internal guidance and training materials are consistent with the legislation, although oversight of training completion could be improved. Additional support mechanisms are in place to assist delegates in reasonable and necessary decision-making. The NDIA instrument of delegation had not been updated to reflect organisational changes made to plan delegation level four arrangements over a two year period.

14. Implementation of participant planning has not complied with established policies and processes. The NDIA's quality assurance audits have shown low levels of compliance with internal policy. The NDIA's Customer Relationship Management system does not fully support recording of participant planning considerations and approvals, or require all mandatory planning requirements to be completed.

15. The NDIA had implemented a largely appropriate quality assurance process for participant plans. There was not enough evidence that quality assurance activities lead to action taken to resolve the issues identified and systemic improvement. As the NDIA had recently commenced continuous improvement processes, it was not evident what impact these processes have had to date.

16. While the NDIA had some mechanisms for review processes to inform continuous improvement in decision-making for reasonable and necessary supports, these are not considered at an enterprise level and their impact is unclear.

17. Since June 2019, the NDIA has been measuring performance of planners in relation to reasonable and necessary decision-making through an internal KPI and a separate quality metric. The underlying input to both performance measures is the same, yet the measures have different targets. The NDIA does not report externally specifically in relation to reasonable and necessary supports in participant plans; however, information more broadly around reasonable and necessary supports is included in external reports.

Recommendations

Recommendation no.1 Paragraph 2.67

The National Disability Insurance Agency review and update the ICT system controls relating to recording participant planning considerations and approvals, to align the system processes with internal policy requirements and to better support planning processes for reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed.*

Recommendation no.2 Paragraph 3.84

The National Disability Insurance Agency establishes mechanisms to track and analyse (at the enterprise level) issues arising from review mechanisms to inform continuous improvement in reasonable and necessary decision-making, including:

- (a) using outcomes data from internal reviews and AAT reviews, including early resolution outcomes, to inform continuous improvement in reasonable and necessary decision-making; and
- (b) implementing metrics for measuring the success of continuous improvement initiatives to enable the Agency to determine whether the initiatives are having the intended impact.

National Disability Insurance Agency response: *Agreed.*

Recommendation no.3 Paragraph 3.101

The National Disability Insurance Agency align service delivery KPI and quality metric targets for reasonable and necessary decision-making; and review the target on a regular basis with a view to increasing the target to drive greater quality standards in reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed and Completed.*

Summary of entity response

The National Disability Insurance Agency (NDIA) welcomes the ANAO's review on Decision-Making Controls for NDIS participant plans.

The NDIA acknowledges the audit findings and agrees with the ANAO's three recommendations. The NDIA is committed to strengthening its controls for reasonable and necessary decision-making on funded supports, and to managing the financial sustainability pressure that inappropriate controls may have on the National Disability Insurance Scheme (NDIS).

The NDIA notes that during the process of the audit, on 28 August 2020, the Australian Government released its official response to the Review of the National Disability Insurance Scheme NDIS Act 2013 (NDIS Act) by Mr David Tune AO PSM (the Tune Review). This response supported the recommendation to improve clarity of the definition of 'reasonable and necessary'. The NDIA's actions to improve its controls will be consistent with the supported recommendations.

The NDIA is improving the consistency of information captured to inform plan budgets and reasonable and necessary decision-making. This will be achieved through the establishment of independent assessments (funded by the NDIS). These will be used with other information individual to each participant, to provide equity and consistency in decision-making and to align funded supports with individual capacity and need.

The NDIA has also commenced the design phase for a new ICT system to better support the planning process and interaction with participants. As part of that work, we are identifying opportunities to design in control points that can act as preventative operational risk and quality controls, by way of straight through processing, data pre population and system edits. We will also integrate major off-system processes with the new ICT system. This design phase will incorporate the findings raised by the ANAO.

The NDIA has commenced a review of its quality assurance program to improve its assessment of whether reasonable and necessary supports are funded and to provide more comprehensive measurement of performance. The NDIA has also expanded the role of the Performance Management and Quality branch, which is leading this review, to include all monitoring and improvement activities, Agency and Partner performance, productivity, and quality. This includes responsibility for capturing key themes and issues affecting reasonable and necessary decision-making, conduct root cause analysis of poor planning and review decision making, and ensuring changes to improve planning processes delivered by all frontline service teams are effectively implemented to close issues and improve compliance.

Additionally, the NDIA is developing improved training and coaching to frontline staff to improve their capabilities for reasonable and necessary decision-making. This training will be mandatory and completed by all staff involved in the decision-making process. The NDIA will strengthen records to provide assurance that all staff completed the revised training.

18. The NDIA's full response to the audit is at Appendix 1.

Key messages from this audit for all Australian Government entities

19. Below is a summary of key messages, including instances of good practice, which have been identified in this audit and may be relevant for the operations of other Australian Government entities.

Governance and risk management

- As a matter of good administrative practice, review and update instruments of delegation when organisational changes are made to ensure that staff making decisions are exercising authority that has been clearly assigned to them.
- Implement ICT system controls in accordance with mandatory operational and legislative requirements to assist with mitigating risks associated with decision-making considerations and outcomes.
- Design and implement a quality assurance framework as early as possible, including a clear process for findings to be recorded from quality (and other) reviews, to ensure actions are tracked as part of continuous improvement activities.

Policy/program implementation

- Where training programs have been developed with the expectation of mandatory completion by staff, developing a method for monitoring and reporting on the training

completion rates allows an entity to obtain appropriate assurance that relevant staff have completed the required training.

- Regular review of guidance materials ensures resources are consistent with legislation and policy, and are internally consistent, particularly where the guidance assists officers to implement legislative requirements and informs decisions over the amount of government funding to be provided.

Performance and impact measurement

- Set consistent targets for performance measurement and review on a regular basis. Where targets are initially set at an achievable level, review targets with a view to increasing where practical, particularly where performance is linked to legislative compliance and the expectation for performance against requirements is high.

Audit findings

1. Background

Introduction

1.1 The National Disability Insurance Scheme (NDIS or the Scheme) replaced existing Commonwealth, state and territory disability support systems with a nationally consistent scheme aimed at providing Australians under the age of 65, who have a permanent and significant disability, with the reasonable and necessary supports they need.⁴

1.2 The NDIS provides funding to eligible participants so they can access disability supports and services. The Scheme commenced in July 2013 with a three year trial phase before being progressively rolled out to each state and territory over a four year transition phase from 1 July 2016. 2020–21 is the Scheme’s first year of full operation.

1.3 The National Disability Insurance Agency (NDIA or the Agency) was established on 1 July 2013 as a corporate Commonwealth entity under the *National Disability Insurance Scheme Act 2013* (the NDIS Act or the Act), to deliver the NDIS and manage, advise and report on its financial sustainability.⁵

1.4 The NDIS care model seeks to invest in appropriate supports over the life of each participant. Eligible participants will develop a plan with the NDIA, which identifies their individual goals and aspirations and the ‘reasonable and necessary’ supports⁶ required to help them achieve these. Plans generally cover a minimum 12 month period. Plans are reviewed with a participant prior to expiry and a new plan is developed. Participants with an approved plan may purchase supports from service providers of their choice.⁷ Figure 1.1 shows the number of participants and supports committed and paid to participants throughout the transition period to full scheme.

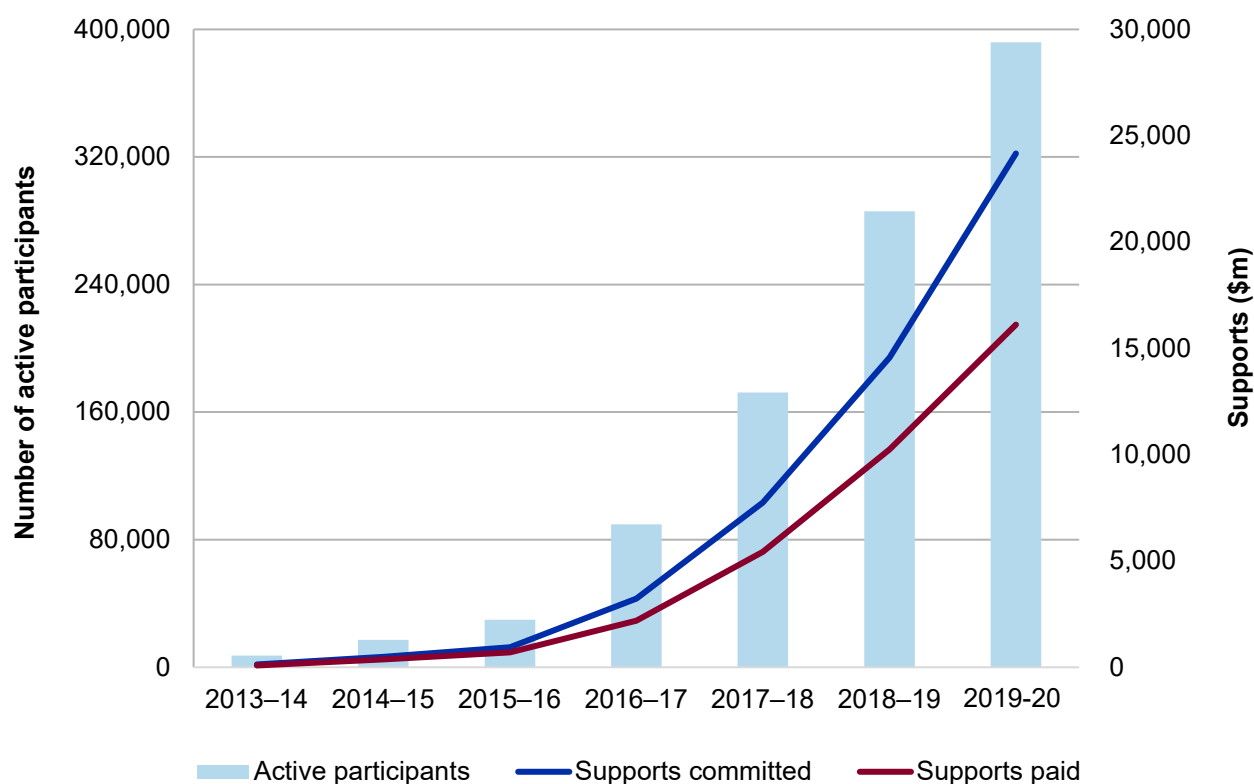
4 National Disability Insurance Agency, *Annual Report 2018–19*, p. iii.

5 Section 118 of the *National Disability Insurance Scheme Act 2013* sets out the full functions of the NDIA.

6 The criteria for determining if a support is ‘reasonable and necessary’ are set out in section 34 of the *National Disability Insurance Scheme Act 2013*.

7 Individuals or organisations delivering a support or product to a participant of the NDIS must generally be registered with the NDIS, except for self-managed participants, who may access supports from non-registered providers.

Figure 1.1: Number of participants and total supports committed and paid 2013–14 to 2019–20

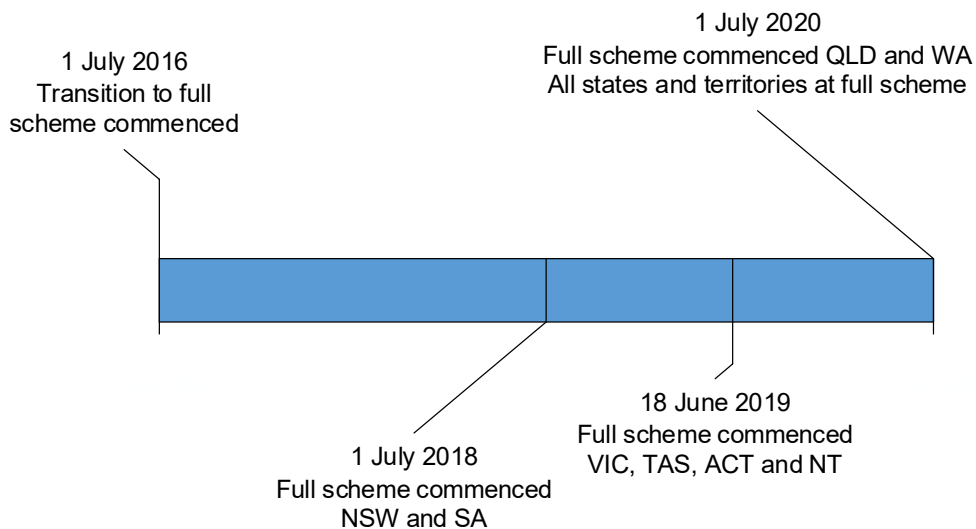


Source: ANAO representation of NDIA data.

1.5 The transition involved the phased transfer of eligible people from state and territory disability support systems into the NDIS. New entrants also joined the Scheme during the transition phase. The Scheme is expected to grow over the next three years to provide support to around 500,000 Australians. The progressive implementation of the NDIS was set out in a series of agreements between the Commonwealth, states and territories.⁸ Timeframes for full implementation of the Scheme differed between jurisdictions, as shown in Figure 1.2.

⁸ An intergovernmental agreement for the NDIS launch was signed by all Australian governments on 7 December 2012. Between September 2015 and January 2017, the Commonwealth and each state and territory entered into a *Bilateral Agreement for the Transition to the NDIS* (Transition Agreements). Between May 2018 and July 2019, the Commonwealth and each state and territory except Western Australia entered into a *Bilateral Agreement on the NDIS*. At the time of the audit, Western Australia was still in the transition phase and had not yet entered into an agreement in relation to the full roll out of the Scheme.

Figure 1.2: Timeframe for transition to full scheme by jurisdiction



Source: ANAO based on NDIA documents.

1.6 The operational aspects of the Scheme are set out in the NDIS Act. The Act specifies: how individuals enter the Scheme; how the level of individual supports is determined; registration of providers; NDIA governance frameworks; and procedures for internal and administrative review.

1.7 The Act also specifies that powers under the Act must be exercised having regard to the financial sustainability of the Scheme.⁹ The Act does not define financial sustainability. The NDIA defines the Scheme as being “financially sustainable if it is delivered within agreed funding based on an insurance approach, and is sustainable for taxpayers and governments over the short and long-term”.¹⁰

NDIS governance

1.8 The NDIS is a nationally based scheme with funding and governance shared amongst all governments. The NDIA holds and manages Scheme funds, administers access to the Scheme and approves payments of support packages based on individual participants’ needs. The governance model for the Scheme is outlined in the NDIS Act.¹¹

1.9 The NDIA Board is responsible for: ensuring the proper, efficient and effective performance of the NDIA’s functions; and determining objectives, strategies and policies to be followed by the Agency. The Board is supported by an Independent Advisory Council and reports to both the

⁹ *National Disability Insurance Scheme Act 2013*, subsection 4(17).

¹⁰ NDIA, Corporate Plan 2020–2024 [Internet], 2020, p. 30, available from: <https://www.ndis.gov.au/about-us/publications/corporate-plan> [accessed 31 August 2020].

¹¹ See NDIS website: <https://www.ndis.gov.au/about-us/governance> [accessed 24 June 2020].

Commonwealth Minister for the National Disability Insurance Scheme and a Ministerial Council, which consists of Commonwealth, State and Territory Ministers.¹²

Reasonable and necessary supports

1.10 Participants receive funding for supports from the NDIA through the provision of a participant plan. The requirements for plans are outlined in section 33 of the NDIS Act. The two primary components of a plan are:

- (a) the participant's statement of goals and aspirations; and
- (b) the statement of participant supports.

1.11 The statement of participant supports, which is prepared with the participant and approved by the NDIA Chief Executive Officer (CEO) specifies, among other things, any reasonable and necessary supports that will be funded under the NDIS.¹³ In making a decision for the funding of reasonable and necessary supports, the CEO must be satisfied of six criteria outlined in subsection 34(1) of the NDIS Act. Subsection 34(1) states:

For the purposes of specifying, in a statement of participant supports, the general supports that will be provided, and the reasonable and necessary supports that will be funded, the CEO must be satisfied of all of the following in relation to the funding or provision of each such support:

- the support will assist the participant to pursue the goals, objectives and aspirations included in the participant's statement of goals and aspirations;
 - the support will assist the participant to undertake activities, so as to facilitate the participant's social and economic participation;
 - the support represents value for money in that the costs of the support are reasonable, relative to both the benefits achieved and the cost of alternative support;
 - the support will be, or is likely to be, effective and beneficial for the participant, having regard to current good practice;
 - the funding or provision of the support takes account of what it is reasonable to expect families, carers, informal networks and the community to provide;
 - the support is most appropriately funded or provided through the National Disability Insurance Scheme, and is not more appropriately funded or provided through other general systems of service delivery or support services offered by a person, agency or body, or systems of service delivery or support services offered:
- (i) as part of a universal service obligation; or

12 The Ministerial Council is the Council of Australian Governments (COAG) Disability Reform Council. On 29 May 2020 the Prime Minister announced that the National Cabinet established to coordinate Australia's response to COVID-19 would continue, a new National Federation Reform Council would be formed and COAG would cease. National Cabinet has announced a review of the former COAG Councils and Ministerial Forums, led by Mr Peter Conran AM. While the review is underway, disability ministers continue to meet to discuss critical issues of national significance in accordance with agreed protocols and the NDIS Act.

13 The statement of participant supports also specifies the general supports (if any) that will be funded under the NDIS; the date by which, or circumstances in which, the NDIA must review the plan; and the management of funding and other aspects of the plan. General supports are set out in subsection 13(2) of the NDIS Act as being a service provided by the NDIA to a person, or activity engaged in by the NDIA in relation to a person, that is in the nature of a coordination, strategic or referral service or activity.

- (ii) in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.

1.12 The NDIS Act also provides for the *National Disability Insurance Scheme Rules* (NDIS Rules) to prescribe methods or criteria to be applied, or matters to which the CEO is to have regard, in deciding whether to approve supports under subsection 34(1).¹⁴ The NDIS Rules most relevant to reasonable and necessary decision-making are the *National Disability Insurance Scheme (Supports for Participants) Rules 2013*.¹⁵ Throughout this report, decisions made in respect to the reasonable and necessary supports that will be funded is referred to as ‘reasonable and necessary decision-making’.

1.13 Supports and services are ‘assistance or products that help a person in their daily life and help them participate in the community and reach their goals’. The types of supports and services that may be funded through NDIS participant plans are set out in Table 1.1.

Table 1.1: Types of funded supports

Support budget	Support category	Support examples
Core Supports	Consumables	Everyday use items such as continence aid
	Daily Activities	Assistance with self-care activities during the day or evening
	Assistance with Social and Community Participation	Supports to enable a participant to engage in social or recreational activities
	Transport	If a participant is unable to use public transport because of their disability
Capacity Building	Choice and Control	Training in planning and plan management
	Daily Activity	Therapy aimed at building a participant's capacity to participate
	Employment	Employment related assessment and counselling
	Health and Well being	Exercise advice required due to impact of disability
	Home Living	Support to obtain/retain appropriate accommodation
	Lifelong Learning	Assistance moving from school to further education
	Relationships	Positive behavioural support strategies to reduce behaviours of concern
Capital Support	Social and Community Participation	Individual life skills development and training including public transport training and support, developing skills for community, social and recreational participation.
	Assistive Technology	Equipment items for mobility, personal care, communication and recreational inclusion (for example, wheelchairs or vehicle modifications)
	Home Modifications	Rail in the bathroom

Source: ANAO based on NDIA documentation.

¹⁴ NDIS Act, subsection 34(2).

¹⁵ The *National Disability Insurance Scheme (Supports for Participants) Rules 2013* are a legislative instrument made by the then Minister for Disability Reform.

1.14 The Act provides for the CEO to approve the statement of participant supports. In practice, the decisions on the reasonable and necessary supports to be funded through participant plans are made by NDIA officers with delegated authority from the CEO to make these decisions.

COVID-19 impacts on participant plans

1.15 On 18 February 2020 the Australian Government activated the Emergency Response Plan for Novel Coronavirus (COVID-19).¹⁶ On 21 March 2020, the Minister for the National Disability Insurance Scheme announced the following changes relevant to participant plans, in response to the COVID-19 pandemic:

- NDIS plans to be extended by up to 24 months, to allow for continuity of support and increasing capacity of NDIA staff to focus on urgent and required changes to plans.
- The NDIA will take a flexible approach to amending plans and, where necessary, shift capacity building funding to funding for core supports, in consultation with special teams of planners in the NDIA.

1.16 Additional measures and changes to the NDIS to assist participants and providers during the COVID-19 pandemic were announced over April–August 2020.¹⁷ This audit did not examine the NDIA's response to the COVID-19 pandemic or the resulting impacts on participant planning activities.

Review of the National Disability Insurance Scheme Act 2013

1.17 In June 2019, the Australian Government commissioned a review, conducted by Mr David Tune AO PSM, of the NDIS Act (the Tune Review). The terms of reference for the review had a focus on streamlining NDIS processes and removing red tape for participants and providers. The review examined participants' experiences of the NDIS and opportunities for improvement, and the legislative amendments required to introduce a Participant Service Guarantee. The Guarantee will set new standards for the time it takes for key steps in the NDIS process.

1.18 The review was finalised in December 2019 and recommendations made included that governments and the NDIA provide more clarity around the definition of 'reasonable and necessary', including clarifications through amending the NDIS Act and updating the NDIS Rules. The Government responded to the report in August 2020, agreeing to work with states and territories to implement amendments to the NDIS Act and Rules to clarify the application of 'reasonable and necessary'.

Rationale for undertaking the audit

1.19 The NDIS represents a significant financial commitment by all Australian governments. The NDIS is expected to grow over the next three years to provide support to approximately 500,000

16 Department of Health, Australian Health Sector Emergency Response Plan for Novel Coronavirus (COVID-19) [Internet], Department of Health, available from <https://www.health.gov.au/resources/publications/australian-health-sector-emergency-response-plan-for-novel-coronavirus-covid-19> [accessed 17 August 2020].

17 NDIA announcements of new measures and changes [Internet], available from: <https://www.ndis.gov.au/coronavirus/latest-advice-ndis> [accessed 28 August 2020].

Australians with permanent and significant disability. In 2019–20, \$16.1 billion of supports was funded through participant plans.

1.20 Decisions on the reasonable and necessary supports to be provided to participants under the Scheme affect both participant outcomes and Scheme financial sustainability. Financial sustainability is a key objective of the NDIS, and the scope and volume of supports funded through participants' plans is a major cost driver. To manage this cost driver, the supports included in participant plans must be 'reasonable and necessary' as defined in the NDIS Act. Decisions about what are reasonable and necessary supports require the exercise of judgement on behalf of delegated decision-makers. Failure to implement effective decision-making controls could result in:

- inconsistency in the application of the law;
- significantly increased Scheme costs;
- inadequate provision of support to Scheme participants; and/or
- cost-shifting between government programs or to participants.

1.21 The NDIA's control framework has been subject to two previous Auditor-General performance audits.¹⁸ Of particular relevance is the ANAO's 2017–18 audit that examined the decision-making controls for NDIS access. This audit builds on the work undertaken in the earlier audit to provide assurance of the financial sustainability control framework for the NDIS, by examining decision-making controls for participant plans.

Audit approach

Audit objective, criteria and scope

1.22 The audit objective was to assess whether the NDIA has appropriate controls to ensure supports in participant plans are 'reasonable and necessary'.

1.23 To form a conclusion against the audit objective, the ANAO adopted the following high level audit criteria:

- Has the NDIA established and implemented appropriate policies and processes to ensure supports in participant plans are 'reasonable and necessary'?
- Is there appropriate oversight to ensure supports in participant plans are 'reasonable and necessary'?

Audit methodology

1.24 The audit methodology included:

- examination of entity documentation;
- interviews with relevant entity staff;
- observation of participant planning system processes and delegate decision-making; and

18 Auditor-General Report No.13 2017–18 *Decision-making Controls for Sustainability — National Disability Insurance Scheme Access*; and Auditor-General Report No. 50 2018–19 *National Disability Insurance Scheme Fraud Control Program*.

- review of 20 submissions to the audit received through the ANAO's website audit contribution facility.

1.25 The audit was conducted in accordance with ANAO Auditing Standards at a cost to the ANAO of approximately \$522,000.

1.26 The team members for this audit were Freya Mathie, Samuel Painting, Hayley Pennock, Jennifer Zierk, Alexander Wilkinson, Scott Humphries, Joel Smith and Peta Martyn.

2. Policies and processes for reasonable and necessary supports

Areas examined

This chapter examines whether the National Disability Insurance Agency (NDIA or the Agency) has established and implemented appropriate policies and procedures to ensure that supports in participant plans are reasonable and necessary.

Conclusion

While the NDIA had established largely appropriate policies and processes for participant planning, the implementation of the policies and processes did not provide the NDIA with appropriate assurance that supports in participant plans are reasonable and necessary.

Areas for improvement

The ANAO made one recommendation aimed at: reviewing and updating ICT system controls to better support planning processes to align with internal policy requirements.

The ANAO also suggested that there would be merit in the NDIA monitoring the training completion rates for new starters to obtain assurance that new planning staff have completed the required training program prior to completing planning tasks.

2.1 To determine whether the NDIA has established and implemented appropriate policies and processes, the ANAO examined whether:

- the NDIA's internal policies and processes are consistent with legislative requirements and support decision-making; and
- the NDIA's implementation of participant planning has been conducted in accordance with internal policies and processes.

Has the NDIA established appropriate policies and processes for participant planning?

The NDIA has established largely appropriate policies and processes for participant planning. The NDIA's internal guidance and training materials are consistent with the legislation, although oversight of training completion could be improved. Additional support mechanisms are in place to assist delegates in reasonable and necessary decision-making. The NDIA instrument of delegation had not been updated to reflect organisational changes made to plan delegation level four arrangements over a two year period.

2.2 To assess whether the NDIA has established appropriate policies and processes for participant planning and determining the reasonable and necessary supports to include in participant plans, the ANAO examined:

- the NDIA's decision-making support mechanisms and tools, including guidance;
- clarity of roles and responsibilities; and
- training to support reasonable and necessary decision-making.

Guidance for making reasonable and necessary decisions

2.3 Administrative decisions must be made in accordance with legislative requirements and any relevant policies or directions. It is important that legislative requirements are reflected in agency guidelines, as this can promote consistent decision-making and inform the public about how legislation is applied.¹⁹

2.4 The NDIA Chief Executive Officer (CEO) has issued the NDIA Operational Guidelines.²⁰ There are 12 operational guidelines for different functions within the NDIA. The Operational Guidelines are intended to assist NDIA delegates to appropriately perform or exercise their functions and powers in making decisions. Part 10 of the Planning Operational Guideline contains information on how planners and delegates are to make decisions on reasonable and necessary supports. The Operational Guidelines have been developed based on the *National Disability Insurance Scheme Act 2013* (NDIS Act or Act) and relevant *National Disability Insurance Scheme Rules* (NDIS Rules) made under the Act.²¹

2.5 The Planning Operational Guideline is consistent with the legislation. It contains information to assist delegates to assess proposed supports against the legislative criteria and makes reference to rulings from the Administrative Appeals Tribunal.

2.6 In addition to the Operational Guidelines, the NDIA has developed internal guidance documents (see Figure 2.1). These generally fall into two categories:

- Practice Guides, which contain general guidance on particular topics or stages of the participant pathway; and
- Standard Operating Procedures, which contain procedural guidance on how to complete specific tasks, including instruction on how to navigate the NDIA Customer Relationship Management (CRM) system.

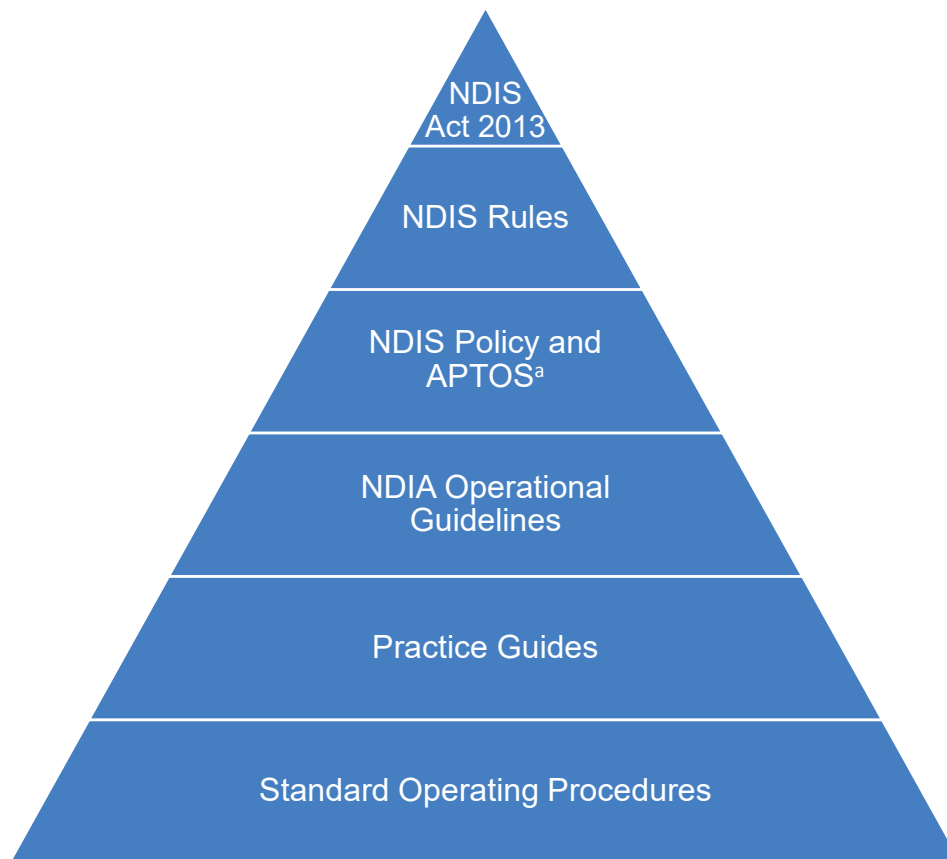
2.7 The NDIA has separate guidance material for the development of plans for Early Childhood Early Intervention (ECEI) participants. Reasonable and necessary supports for ECEI plans must still satisfy the legislative criteria; however, some matters may be considered differently, for example, the investment value of early intervention supports and the role of parents in providing informal care and support.

19 Administrative Review Council, *Best Practice Guide 1 – Lawfulness*, 2007, p. 16, available at: <https://www.ag.gov.au/legal-system/administrative-law/administrative-review-council-publications> [accessed 17 August 2020].

20 Subsection 202(3) of the *National Disability Insurance Scheme Act 2013* requires a person exercising powers or functions under a delegation by the CEO to comply with any directions of the CEO.

21 Multiple legislative instruments, being the *National Disability Insurance Scheme Rules* have been made under the NDIS Act. The *National Disability Insurance Scheme (Supports for Participants) Rules 2013* relate to reasonable and necessary decision-making.

Figure 2.1: Summary of NDIS legislation and operational documents for participant planning



Note a: The Council of Australian Governments (COAG) agreed the NDIS Applied Principles and Table of Supports (APTOS) on 19 April 2013.

Source: ANAO based on NDIA documentation.

2.8 As of April 2020, the NDIA had 33 practice guides and 30 standard operating procedures related to planning.²² There was also guidance material relating to different stages in the NDIS Pathway (for example, pre-planning and plan implementation), which may also be relevant to planning staff and delegates. The ANAO reviewed guidance material specific to reasonable and necessary decision-making and plan approval.

2.9 The internal guidance documents reviewed were consistent with the legislation and largely support reasonable and necessary decision-making. Guidance states that a justification that addresses the legislative criteria must be recorded for each funded support and requires that a record is kept for any declined supports. Not all of the criteria have supporting procedural guidance. There is no additional guidance for delegates to complete the tasks specified in the Planning Operational Guideline that determine whether a proposed support will be value for money, or is likely to be effective and beneficial; however, there are additional requirements set out in the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* for assessing these two criteria. In addition to guidance documents, the NDIA has additional support mechanisms to assist with reasonable and necessary decision-making.

²² These documents relate to all aspects of the planning process, including reasonable and necessary decision-making. The NDIA has additional practice guides and task cards relating to ECEI planning.

2.10 The NDIA advised that planning staff are expected to primarily use the operational guidelines and that internal guidance is considered to be supplementary. Over the course of the 2020–21 financial year, the NDIA advised it is undertaking a project to update the Operational Guidelines, with the intention of providing more clarity and transparency on how decisions are made.

Is guidance material up to date and available to staff?

2.11 The NDIA had a documented process for creating and updating guidance material. The NDIA aims to review all internal guidance documents annually. Guidance is also updated in response to specific process or policy changes (see Case Study 1).

2.12 Guidance material is made available to all staff on the NDIA intranet and changes are promulgated via fortnightly publishing updates. The NDIA had some visibility over staff awareness and usage of internal guidance through staff feedback and by monitoring the number of intranet views. The NDIA did not monitor staff usage of the Operational Guidelines, which are published on its website.

Case study 1. Disability-Related Health Supports

On 28 June 2019 the COAG Disability Reform Council announced that, from 1 October 2019, additional disability-related health supports would become available for funding under the NDIS.^a The NDIA advised this change was introduced to address interface issues between the NDIS and the health system regarding responsibility for certain types of supports.

Following this announcement, a number of policy statements were developed by the NDIA, which resulted in further actions across the Agency. These included:

- development of a new operational guideline;
- development of a new suite of internal guidance documents; and
- updating of existing internal guidance documents.

In total, one new standard operating procedure and nine new practice guides were developed in relation to disability-related health supports. Existing guidance, including those related to reasonable and necessary decision-making, were also updated to reflect these changes.

The Operational Guideline for disability-related health supports was provided to the NDIA Policy Committee for approval on 9 September 2019, which is consistent with the change authority requirements. The new guidance material was made available to staff via the NDIA intranet. This was accompanied by a fortnightly publishing update on 30 September 2019, which included information on the new publications and the updates made to existing guidance.

Note a: NDIA [Internet], available from: <https://www.ndis.gov.au/news/3033-disability-reform-council-update> [accessed 17 August 2020].

Additional support mechanisms

2.13 The NDIA has additional support mechanisms in place to assist delegates in making reasonable and necessary decisions. These include:

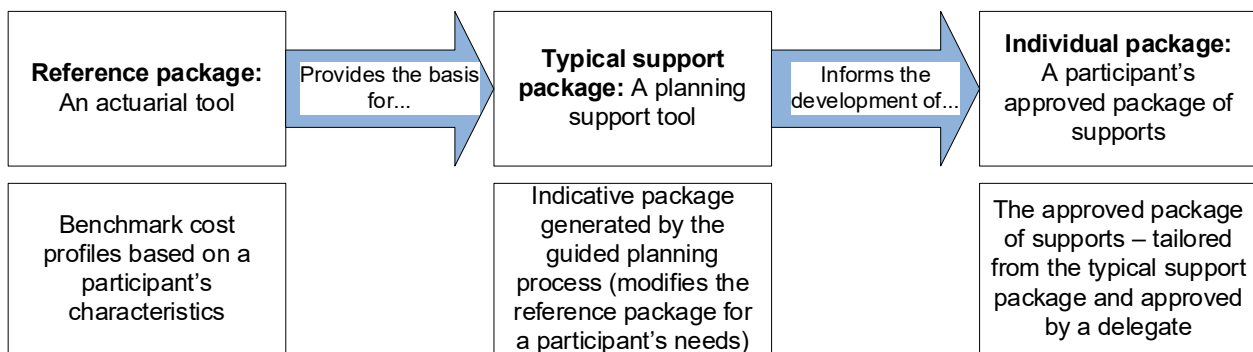
- the use of typical support packages (TSP);

- use of the support calculator; and
- technical advice requests.

Typical Support Packages

2.14 The NDIA, in consultation with disability experts, developed a number of reference packages to estimate plan expenses across the Scheme.²³ Reference packages provide the basis for an initial support package, the TSP, which is determined by various factors entered into the CRM during the planning process (see Figure 2.2). The calculation of the TSP is automated within the CRM.²⁴ The NDIA advised that TSPs are not used for the development of plans for ECEI participants, as ECEI participants do not go through the guided planning process.

Figure 2.2: Purpose of the typical support package



Source: ANAO summary of NDIA documentation.

2.15 The use of TSPs is intended to provide an evidence-based and nationally consistent approach to planning. The NDIA advised that the TSP provides a benchmark for planners and does not determine whether a support is reasonable and necessary. NDIA guidance instructs that the TSP should be reviewed by planning staff and only adjusted if it does not align with the participant's needs. TSP funding is not itemised, it is generated at the support category level for example, transport (Table 1.1 sets out the different support categories). Individual supports need to be identified by planning staff and matched to the TSP funding amount. There are some types of supports that the TSP does not account for, such as disability-related health supports and supports for behaviours of concern, which need to be manually identified and added to plans. NDIA guidance includes a list of common areas where the TSP requires adjustment.

2.16 The NDIA monitors approved plan budgets and TSPs against reference packages. This assists to identify cost drivers across the Scheme. The NDIA implements an annual indexation update to support pricing controls outlined in the NDIS Price Guide.²⁵ As part of this process, reference

23 Further information on the NDIA's use of reference packages can be found in the document, *NDIS Insurance Principles and Financial Sustainability Manual*. Available at: <https://www.ndis.gov.au/about-us/publications> [accessed 18 August 2020].

24 The automated generation of the TSP within the system operates as an integrity control as planning staff are not shown the details of the modifying factors for the TSP.

25 The NDIS Price Guide is available at: <https://www.ndis.gov.au/providers/price-guides-and-pricing>. Further information can be found at: <https://www.ndis.gov.au/participants/working-providers/using-ndis-price-guide> [accessed 18 August 2020].

package amounts have been updated annually from 1 July 2017. Updates were made to the guided planning questions in 2017.

Support calculator

2.17 The support calculator is a tool within the CRM that allows planning staff to look up individual supports. Support calculator items are based on the NDIS Price Guide and Support Catalogue.²⁶ The support calculator can be used to determine the benchmark cost of a support and to generate support line items on a participant's plan. The support calculator must be used in order to generate stated supports²⁷ or 'quote required' items.²⁸ The support calculator can be used for non-stated supports but this is not required. The NDIA advised that supports generated by the support calculator do not inherently satisfy the reasonable and necessary criteria set out under the Act. Supports must still be considered by planners against all of the criteria to determine whether they are reasonable and necessary.

Technical advisory requests

2.18 The NDIA's Technical Advisory Branch (TAB) provides technical and clinical advice to NDIA staff. One of TAB's aims is to drive consistency in the application of the NDIA reasonable and necessary decision-making framework. TAB advisors include allied health professionals and subject matter experts with a background in disability or clinical care. Planning staff can request TAB advice in writing or via the technical advice phone support (TAPS) service, which became available from August 2019.

2.19 Internal guidance requires planning staff to submit TAB mandatory referrals. The criteria for mandatory referrals are available on the NDIA intranet. Some examples that require mandatory referrals include: certain types of assistive technology; vehicle or home modifications; complex behaviours; and high transport costs. Planners must identify if the mandatory criteria have been met in order to make a request. Plan delegates can make further TAB requests where they are unable to make a decision regarding reasonable and necessary supports.²⁹ The TAB maintains an intranet page of published advice which is available to all staff.

Roles and responsibilities

2.20 In administrative decision-making, it is important that a decision-maker is clear about the decision to be made and the source of power for that decision. Power assigned through legislation can only be exercised by the designated person unless there has been further delegation of the

26 NDIS Support Catalogue [Internet] available at: <https://www.ndis.gov.au/providers/price-guides-and-pricing> [accessed 18 August 2020].

27 Subsection 33(3) of the *National Disability Insurance Scheme Act 2013* allows for supports to be specifically identified (stated) or described generally (non-stated). The NDIS (Plan Management) Rules and Part 11 of the Planning Operational Guideline explain that approved funding for stated supports can only be used for that support while funding for non-stated supports can be used flexibly.

28 A quote must be provided for some high cost supports, such as some types of assistive technology or home modifications, before funding can be made available.

29 Requests for advice are triaged and allocated based on their urgency and complexity. Key performance indicators are set for timeliness of advice. TAB has an internal clearance and quality assurance process, which involves reviewing advice based on advisor proficiency level.

power. An officer without delegated power is able to assist in preparing material for the decision-maker but the final decision can only be made by the delegate.³⁰

NDIA instrument of delegation

2.21 The power to approve a participant's plan, including any reasonable and necessary supports, is granted to the NDIA CEO under subsection 33(2) of the NDIS Act. Subsection 202(1) authorises the CEO to delegate, in writing, any of their powers or functions under the Act.

2.22 The NDIA has a written instrument of delegation outlining the CEO's delegation of powers under the NDIS Act. Delegations for planning are organised in accordance with two schedules. Schedule 1 assigns five plan delegation levels to NDIA positions and classification levels. The annual plan budget approval limits for delegation levels one to four are set out in Schedule 2 of the instrument of delegation, with the fifth level able to approve plans with no financial limit. The limit for each level of delegation varies based on the severity of the participant's disability, referred to as level of functional impairment (there are 15 levels of functional impairment).

Table 2.1: Assessment of NDIA instrument of delegation

Good practice for delegation arrangements	ANAO assessment of NDIA instrument of delegation
Instrument of delegation is established and signed by the designated person.	✓
Decisions that the delegate is authorised to make are described by reference to the legislation.	✓
Delegation can be made to a named individual, a specified position, or classification level.	✓
A limit, such as a monetary value, can be placed on the scope of a delegation.	✓
Delegate exercises the power on their own behalf and the decision should be signed in their own name.	✓
Instrument of delegation should be reviewed from time to time, to make sure it is consistent with legislation and with allocation of roles in an agency.	✗

Note: Good practice identified from Administrative Review Council, *Best Practice Guide 1 – Lawfulness*, 2007.

Source: ANAO analysis.

2.23 The design of the NDIA instrument of delegation is consistent with good practice for delegation arrangements (see Table 2.1). As outlined below, after the instrument was signed in June 2018, organisational changes have resulted in the arrangements for plan delegation level four being altered.

Plan delegation level four arrangements

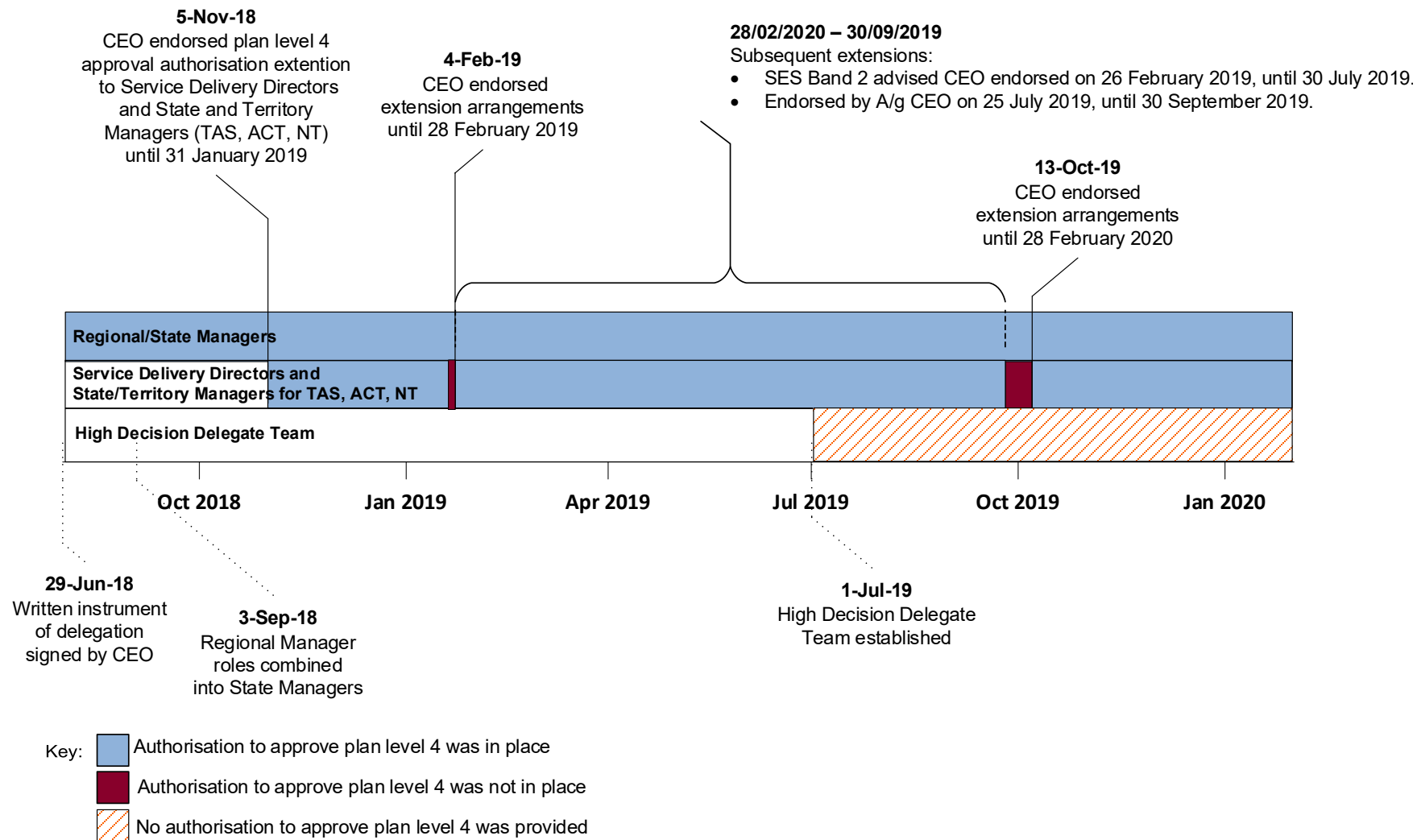
2.24 The instrument allows for level four plan delegates to approve plans with an annual budget of up to \$2 million across the 15 levels of functional impairment. In June 2018, when the instrument was signed, service delivery areas were organised under 14 regional managers who held plan delegation level four. In September 2018, the NDIA underwent an organisational restructure. The

30 Administrative Review Council, *Best Practice Guide 1 – Lawfulness*, 2007, p. 2–5 (see footnote 19).

regional manager positions were combined into five state managers and three subordinate state and territory managers, with the five state managers holding plan delegation level four.

2.25 In October 2018, the CEO was advised of the risk that there were not sufficient delegates to approve the volume of plans requiring level four delegate approval. On 5 November 2018, the CEO granted plan delegation level four to 30 service delivery directors and three subordinate state and territory managers. Under the instrument of delegation, these staff would ordinarily hold plan delegation level three that spans from \$50,000 to \$2 million across the 15 levels of functional impairment. This was agreed as an interim measure until 31 January 2019. These arrangements were extended four times and ceased on 28 February 2020, as shown in Figure 2.3.

Figure 2.3: Timeline of changes to plan delegation level four arrangements



Note: Delegation arrangements were further altered in response to the COVID-19 pandemic. These changes have not been considered as a part of this audit.

Source: ANAO analysis of NDIA documentation.

2.26 The CEO was provided with a request to extend the delegation arrangements on each occasion. The NDIA was not able to locate a signed copy of the brief showing CEO approval for the delegation extension request from February to July 2019. Further, following the expiry of delegations on 30 September 2019, approval to extend these delegations was not granted by the Acting CEO until 13 October 2019. Expiry dates had not been established in the system for these users and access was not manually removed. During the period from 30 September 2019 to 13 October 2019, 28 level four plans worth a total value of \$10.6 million were approved by users with an expired delegation.

2.27 The November 2018 and 26 February 2019 extension requests provided to the CEO also proposed the creation of a new team as a long-term solution to approving level four plans. A further extension request to the Acting CEO in May 2019 sought approval to create the high decision delegate team. On 25 June 2019, the Acting CEO approved the commencement of the high decision delegate (HDD) team on 1 July 2019, subject to the completion of supporting changes to enable the team to be operational. The HDD team of 10 staff was subsequently established in July 2019. Level four plan delegation for service delivery directors was removed after 28 February 2020, with the HDD team assuming primary responsibility for approval of level four plans.

2.28 The extension requests provided to the CEO in February 2019 and Acting CEO in May 2019 set out that changes to the instrument of delegation would be required to extend plan delegation level four to the HDD team, after the completion of additional training and passing a number of competency checks before approving level four plans. Based on classification levels set out in the June 2018 instrument of delegation, the members of the HDD team held plan delegation level two that spanned from \$25,000 to \$550,000 across the 15 levels of functional impairment. CEO approval for the HDD team to hold plan delegation level four was not sought or provided, until a new instrument of delegation was signed by the CEO on 21 September 2020. The September 2020 instrument of delegation reflected the changes made to NDIA's organisational structure, providing state managers and subordinate state and territory manager roles plan delegation level four, as well as establishing HDD team plan delegation level four.

2.29 The NDIA's delegation arrangements, including how they have been implemented in the NDIA CRM are discussed further below (see from paragraph 2.45).

Plan development and approval process

2.30 NDIA guidance material outlines the roles of plan developers and plan delegates in completing planning tasks. The role of plan developer can refer to delegates and also includes contracted 'partners in the community', such as Local Area Co-ordinators (LAC) and Early Childhood (EC) partners.

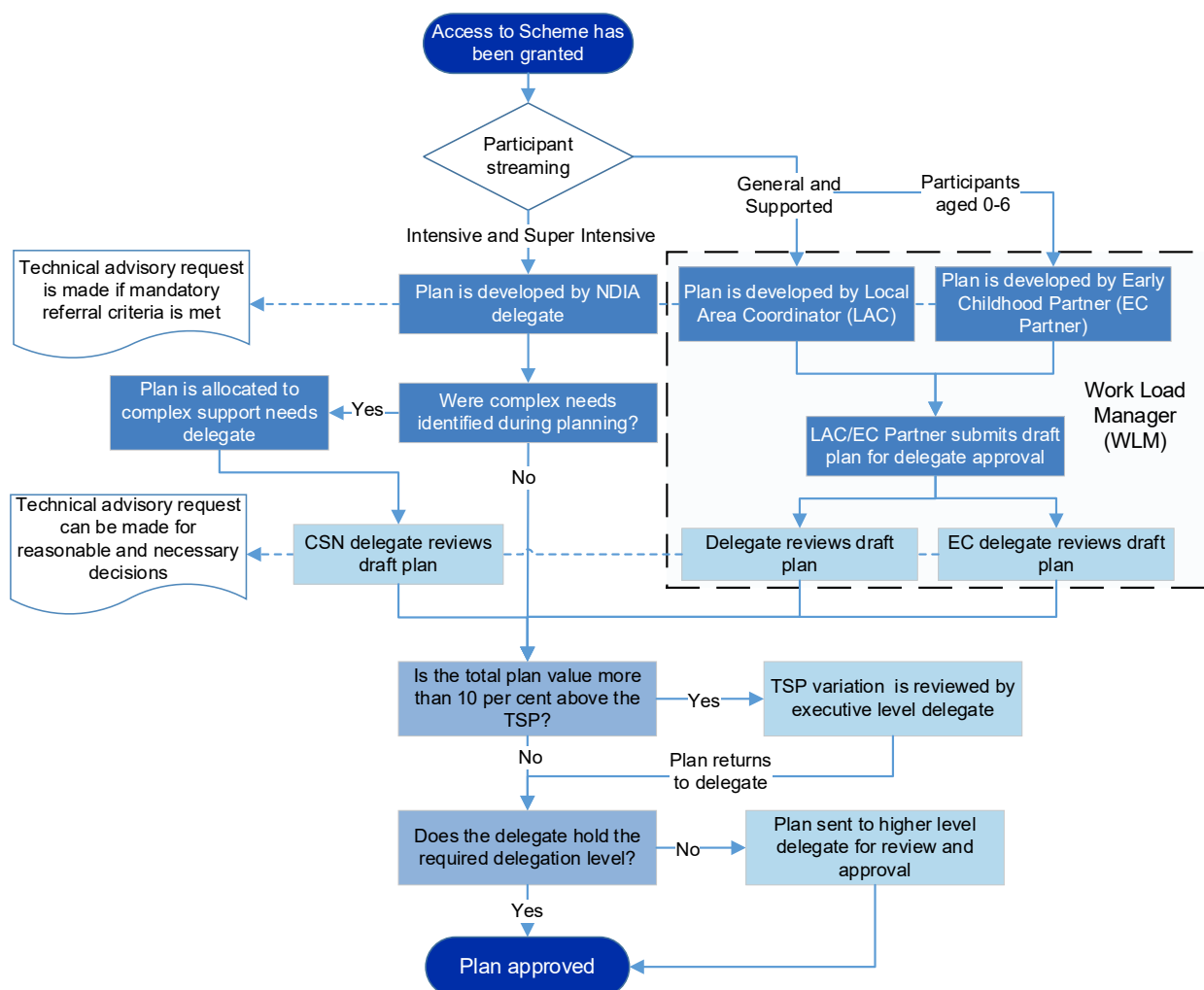
2.31 The NDIA refers to 'pre-planning' and 'planning' as different stages which encompass plan development and approval. Final plan approval can only be completed by an NDIA delegate. All other pre-planning and planning tasks can be completed by the plan developer.

2.32 The responsibility for plan development is determined by the participant streaming decision.³¹ Generally, LACs complete plan development for participants streamed as general or supported. Plans for participants streamed as intensive or super intensive are developed by NDIA delegates. In addition to streaming, participants can be referred to the complex support needs

31 There are four participant streams: general; supported; intensive; or super intensive.

(CSN) pathway if additional complex needs are identified. Figure 2.4 outlines these roles and responsibilities.

Figure 2.4: Roles and responsibilities for plan development and approval



Source: ANAO based on NDIA documentation.

2.33 The NDIA had appropriate review points in place for participant planning. Additional review is required if the plan budget is more than 10 per cent above the TSP. If the total plan value exceeds the approver's delegation limit, then the plan must be allocated to a higher level delegate for approval. If the plan budget falls within the delegation limit, a plan can be developed and approved by the same individual.

2.34 Plans developed by LACs and EC partners require an extra step in the CRM where the draft plan is submitted for NDIA delegate approval. From August 2019, the NDIA began a staged implementation of Workload Manager, a new workflow management feature in the CRM, to allocate draft plans to delegates. Workload Manager is expected to deliver improvements to planning efficiency and replaces the manual workload distribution process currently in place. Workload Manager was expected to be implemented in all service delivery areas by September 2020.

Training

2.35 It is important that decision-makers understand the legal and administrative framework in which decisions are to be made. Provision of adequate training in relation to that framework can contribute to this understanding and support good decision-making.³²

Training for reasonable and necessary decision-making

2.36 The NDIA has developed training on reasonable and necessary decision-making. A facilitated course and eAssessment is included as a part of the NDIA new starter program (NSP). In addition to the NSP, a reasonable and necessary eLearning module is available; however, its completion is not mandatory.

2.37 Information provided in reasonable and necessary training is consistent with legislation and internal guidance material. Training includes information to assist planning staff to access and understand the NDIS legislation and the Planning Operational Guideline. Examples of reasonable and necessary decisions and justifications that address the legislative criteria are provided. The NDIA receives and incorporates feedback from facilitators on training material.

2.38 The NSP commenced in July 2018 and underwent a refresh in October 2019. The current NSP is a six week program comprised of face-to-face courses; online assessment; and on-the-job learning. The NDIA has advised that completion of the different aspects of the NSP is recorded by the new starters in the NDIA learning and development system.

2.39 As at 30 June 2020, NDIA data showed that there were 1147 planners who had commenced between July 2018 and April 2020. The reasonable and necessary module of the NSP course had been completed by 832 of these planning staff (73 per cent).

2.40 The NDIA does not conduct any regular internal monitoring or reporting on completion of the NSP or on training specific to reasonable and necessary decision-making. The NDIA was not able to demonstrate that it has assurance that planning staff are appropriately trained before they begin to complete planning tasks. The ANAO has made previous findings and a recommendation aimed at the NDIA's training requirements for staff making access decisions.³³ Previous findings related to incomplete training records and a lack of documentation for on-the-job training requirements for access decision-makers. The NDIA agreed to the audit recommendation and advised in its response to the report that training arrangements and record keeping for staff performing the access function had been enhanced, including improved documentation for completion of training and acquired competency which had been included in staff and contracted staff training records. This audit did not re-test training for access decision-makers but did not find that learnings from the previous audit had been clearly applied to training for planning staff. There would be merit in the NDIA monitoring the training completion rates for the NSP to obtain assurance that new planning staff have completed the required training program prior to completing planning tasks.

High decision delegate team training

2.41 The HDD team was required to complete specific training and competency checks in order to approve delegation level four plans. Training was delivered over seven weeks, and included four

32 Administrative Review Council, *Best Practice Guide 1 – Lawfulness*, 2007, p. v (see footnote 19).

33 Auditor-General Report No.13 2017–18 *Decision-making Controls for Sustainability — National Disability Insurance Scheme Access*, p. 23–24, available from: <https://www.anao.gov.au/work/performance-audit/decision-making-controls-sustainability-ndis> [accessed on 17 August 2020].

competency checks. Two of the 10 HDD team members were assessed as demonstrating the required competencies in their final check. The NDIA advised the remaining eight team members undertook additional on-the-job training for a further three months to build the required knowledge and competency. The NDIA has advised that 100 per cent of HDD plans were required to be reviewed by existing level four delegates for their first three months of operation.

Has implementation of participant planning complied with established policies and processes?

Implementation of participant planning has not complied with established policies and processes. The NDIA's quality assurance audits have shown low levels of compliance with internal policy. The NDIA's Customer Relationship Management (CRM) system does not fully support recording of participant planning considerations and approvals, or require all mandatory planning requirements to be completed.

2.42 To assess whether the NDIA has implemented appropriate policies and processes for participant planning, the ANAO examined:

- whether the NDIA CRM adequately supports planning processes; and
- whether NDIA participant planning has demonstrated compliance with the policies and processes outlined above.

Customer Relationship Management system

2.43 Planning tasks are completed within the NDIA CRM. The ANAO examined whether the design of the CRM supports planning processes. This included review of:

- the configuration of delegations; and
- the automated controls for plan development and approval.

Configuration of delegation limits and allocation of roles

2.44 As outlined above (paragraph 2.22), Schedule 2 of the NDIA instrument of delegation sets limits on the annual plan budget, which can be approved by a delegate based on the participant's level of functional impairment. The instrument allows for level four plan delegates to approve annual plan budgets up to \$2 million for any participant. The instrument grants the power to approve a participant's plan with no limit to some staff in specific senior executive positions.

2.45 Prior to April 2020, the NDIA had not implemented effective configurations for all delegation levels in the CRM. Delegation levels one to three were correctly configured, successfully preventing plan approval when the delegation limit is exceeded. However, there was no effective configuration established for plan delegation level four. The CRM previously allowed NDIA staff with plan delegation level four to approve participant plans with no limit. The issue with incorrect configuration of the plan delegation level four in the CRM was raised during the interim audit phase of the ANAO's 2019–20 financial statement audit and changes were made by the NDIA in response. The system configuration subsequently implemented successfully prevents level four plan approval if the delegation limit is exceeded and aligned the level four plan delegation limits in the CRM with the instrument of delegation.

2.46 Between July 2019 and April 2020, one plan had been approved by a level four delegate with an annualised budget above \$2 million. The NDIA conducts a post-approval review of high cost plans and monthly revalidation checks of the CRM roles allocated to all NDIA staff are completed manually.

2.47 The NDIA's allocation of system roles for users who have held level four plan delegation between July 2019 and January 2020 were reviewed. Roles have largely been assigned in accordance with the NDIA instrument of delegation and additional CEO approvals. Of a total of 80 different users, three users were identified as having a delegation which was inappropriate for their role in the system. The NDIA confirmed these were a result of system errors or manual oversight in the revalidation process. None of these users had approved level four plans. The NDIA advised there are a number of updates planned for the CRM revalidation process intended to reduce the likelihood of errors occurring.

Required system fields and information

2.48 The CRM includes mandatory fields which prevent users from progressing through the system if the fields have not been completed. Mandatory fields have been implemented in the CRM for pre-planning and planning tasks to assist planners and delegates to record appropriate information related to funding reasonable and necessary supports.

2.49 The NDIA requires planning staff to record justifications for any reasonable and necessary decisions made. This includes approved supports and supports that are declined for not meeting the reasonable and necessary criteria. Justification comments for supports included in the plan are mandatory fields and must be recorded before the plan can be approved. Declined supports are removed from the plan before approval. The record for declined supports must be recorded as an 'interaction' in a separate area of the CRM.

2.50 The completion of interactions is not required by the CRM; however, NDIA internal policy states that interactions are mandatory. In addition to declined supports, interactions are used as a record of completion for other mandatory processes, including Executive Level staff review of a support package that varies more than 10 per cent from the TSP. The CRM does not indicate when a plan has exceeded the TSP by more than 10 per cent — staff are required to manually calculate whether the TSP has been exceeded.

2.51 The TAB mandatory referral criteria are not built into the CRM. Staff must identify when a support meets the criteria and manually refer to the TAB via phone or email. The NDIA has advised the agency does not have assurance that all mandatory referrals are being made. Table 2.2 provides a summary of how policy requirements have been set out within the CRM.

Table 2.2: Summary of how NDIA policy requirements are implemented in the CRM

Policy requirement	Required by CRM?	ANAO comment
Justification must be recorded for reasonable and necessary supports	Yes	The CRM requires justification comment to be completed before a plan can be approved.
Justification must be recorded for declined supports	No	Declined supports are removed from a plan and recorded as an interaction.
10 per cent increase from TSP must be reviewed by EL delegate	No	NDIA staff must identify variance and allocate to EL delegate and record as an interaction.

Policy requirement	Required by CRM?	ANAO comment
Plan must be approved by appropriate level delegate	Yes	CRM prevents NDIA staff from approving a plan that exceeds their delegation limit.
TAB referral must be made when mandatory criteria is met	No	NDIA staff must identify when criteria has been met and manually refer to the TAB.
Information required for the TSP must be recorded	Yes	The CRM requires information to be recorded, but this can be edited prior to plan approval.

Source: ANAO observation of NDIA CRM system.

2.52 Responses to guided planning questions, which are required to generate the TSP, are mandatory fields. The TSP is generated via a set of business rules which determine the modifying factors based on responses. The ANAO observed that the business rules for the guided planning questions that impact on the TSP generated had been applied correctly in the system and resulted in a correct TSP amount being generated for a participant, when combined with a reference package.

Implementation of participant planning

2.53 A decision to approve the statement of participant supports in a participant's plan is a reviewable decision under the NDIS Act.³⁴ It is good administrative practice for the original decision-maker's reasoning and decision against the legislative requirements to be clearly recorded at the time of decision as this will be useful if the decision is later subject to review.³⁵

Planning compliance with legislative and internal requirements

2.54 The ANAO planned to test a sample of approved plans for their compliance with legislative and internal policy requirements as part of the audit procedures. The planned test included reviewing whether:

- justification comments address the legislative criteria for reasonable and necessary supports, as is required by NDIA internal policy; and
- mandatory planning interactions have been completed, when the required conditions are present (including for review of TSP increases above 10 per cent).

2.55 To obtain reasonable assurance, the ANAO sampling methodology requires an estimate of the expected error (non-compliance) rate in order to determine a sample size that is representative of the population. In order to inform this estimate, the results from the NDIA's quality assurance end-to-end audits in areas that aligned with the proposed testing approach were reviewed (the NDIA's quality assurance activities, including the end-to-end audits are discussed further in Chapter 3).

2.56 The results from the NDIA's end-to-end audits showed low conformance. The non-compliance results (determining the expected error rate) for all tests was 50 per cent or greater for four consecutive periods (see Table 2.3). The ANAO audit sampling policy sets out that an expected

34 Reviewable decisions are set out in section 99 of the *National Disability Insurance Scheme Act 2013*. Section 100 sets out the process for a review of a reviewable decision.

35 Administrative Review Council, *Best Practice Guide 4 – Reasons*, 2007, p. 1 (see footnote 19).

error rate greater than 40 per cent is not appropriate for representative sampling. On this basis, completing the proposed sample testing was not possible.

Table 2.3: Compliance results from NDIA end-to-end audits

Test question from NDIA end-to-end audit	Mar 2019	Apr/May 2019	Jun 2019	Jul/Aug 2019	Sep/Oct 2019	Nov/Dec 2019	Jan/Feb 2020
Have justifications been recorded that demonstrate why the support is considered reasonable and necessary? (BD04)	72%	68%	63%	50%	35%	32%	36%
If a plan is more than 10% over TSP, is there evidence of review by EL delegate? (BD08)	—	—	33%	29%	28%	32%	36%
Has the interaction guide been followed on the participant's record? (TM05)	47%	46%	45%	40%	54%	47%	42%

Note: The end-to-end audit program (from which this data is taken) moved to a bi-monthly cycle as of the April/May reporting period; however June 2019 was run as a standalone cycle to test changes made to the audit guide prior to the new financial year. For periods with no values, this question was not included in the audit guide as yet. The question BD08 was incorporated into end-to-end audits in July 2019.

Source: ANAO based on NDIA data.

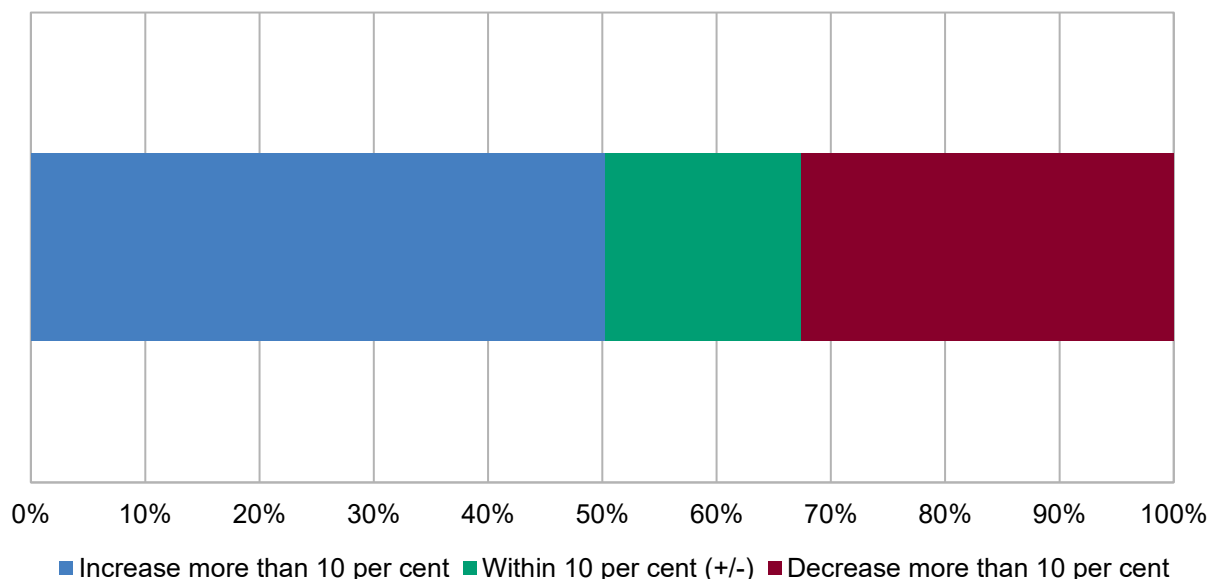
2.57 The results set out in Table 2.3 are based on the NDIA's end-to-end audits, which review between 800 and 1300 approved plans each two month cycle. The low compliance rates shown for 'evidence of Executive Level delegate review where a plan's funding varies more than 10 per cent from the TSP' shows that this mandatory process is not consistently being undertaken. Where a plan is within 10 per cent of the TSP, a delegate can both prepare and approve a plan. Non-compliance with the mandatory review point could lead to plans that vary significantly from the TSP being approved without any additional review. The low compliance rate found through the NDIA's end-to-end audits correlates to the lack of mandatory system requirements for the completion of this task.

Implementation of Typical Support Packages

2.58 TSP funding generates an annualised amount for some support categories. As a result, plans with a duration greater or less than one year will always vary from the TSP. Of 289,785 plans with a one year duration that were approved in 2019-20, 50 per cent had an approved budget that was

more than 10 per cent above TSP (see Figure 2.5). The combined TSP amount generated for the 442,767 plans approved in the period (of all durations) was \$26.8 billion. The total value of approved plans (\$32.2 billion), represents a 20 per cent increase to the combined TSP amount.

Figure 2.5: TSP variation for approved plans with a one year duration



Source: ANAO analysis of NDIA approval data.

2.59 The TSP is designed to allow for manual override of the funding amount so that plans can be adjusted to meet participant needs. The NDIA advised that a participant's level of functional impairment and guided planning responses can be altered by NDIA staff at any point prior to plan approval. This could potentially allow delegates to alter the TSP and circumvent additional approval.

2.60 The NDIA's end-to-end audits examine whether the inputs to the TSP have been altered and, where they have been, whether supporting evidence has been provided. The results indicate that factors that influence the TSP are sometimes altered without supporting evidence (see Table 2.4).

Table 2.4: Altering of TSP factors — compliance results from NDIA end-to-end audits

Audit question from NDIA end-to-end audit	Jul/Aug 2019	Sep/Oct 2019	Nov/Dec 2019	Jan/Feb 2020
If there has been a change to the severity tool, is there sufficient evidence to justify this change? (BD10)	40%	37%	40%	38%
If there has been a change to disability, is there sufficient evidence to justify this change? (BD11)	60%	61%	69%	55%
If there has been a change to guided planning, is there sufficient evidence to justify this change? (BD12)	45%	49%	51%	48%

Source: ANAO based on NDIA data.

Operation of the Technical Advisory Branch

2.61 The TAB manually tracks requests for advice. In the period from 31 July 2019 to 10 March 2020, the TAB had received 4981 written requests for advice. This represents less than two per cent of total plans approved during this period.

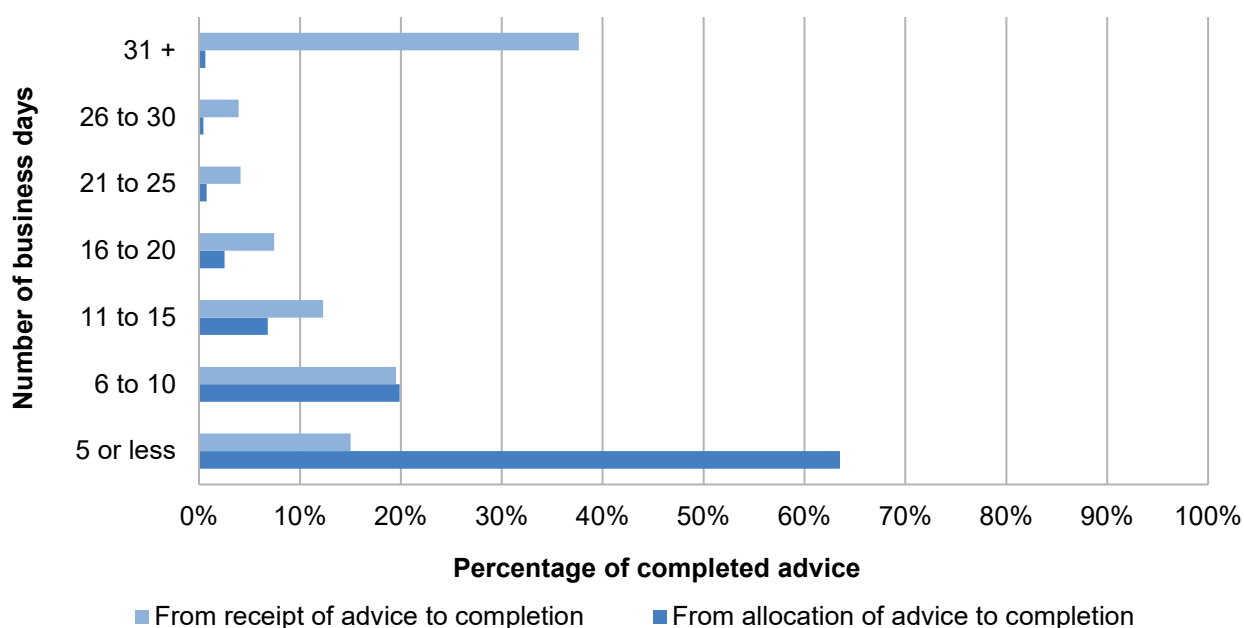
2.62 General data is recorded regarding the nature of requests, which shows 95 per cent of requests made to TAB are in relation to reasonable and necessary supports, with 75 per cent of these requests relating to complex assistive technology or home modifications.

2.63 In January 2019, the NDIA conducted a survey of staff to gather feedback on their experience with the TAB. Of 654 staff surveyed (12 per cent of staff who made a request over the period), 93 per cent responded that they accepted the advice provided by TAB.

2.64 The TAPS service commenced in August 2019 to provide timely informal advice to simple requests. More complex requests are required to be sent through the formal referral process. As of March 2020, the TAPS service had received 10,685 requests. This represents approximately four per cent of total plans approved during the period of operation. Information captured for TAPS advice is not complete and does not allow for reliable monitoring or reporting on theme of requests.

2.65 The TAB has set an internal key performance indicator (KPI) for formal requests to be closed within one week of being allocated to an advisor. Review of timeframes shows 64 per cent of requests were closed within five business days of being allocated. However, the average number of business days between receiving an advice request and allocation to an adviser was 23. Measuring from receipt of advice to completion shows that the average time taken to complete a request for advice is 28 business days. Thirty-six per cent of completed requests took more than 31 days to complete (Figure 2.6).

Figure 2.6: Number of business days taken to complete TAB requests



Source: ANAO analysis of NDIA documentation.

2.66 A February 2020 NDIA internal audit report identified areas for improvement for TAB requests and noted weaknesses in system controls that support TAB processes. The report

identified that a large proportion of plans which met the mandatory criteria for TAB referral had not been referred. Of the approved plans identified as meeting the mandatory referral criteria in relation to assistive technology and supported independent living supports, 28 per cent and 19 per cent, respectively, had been referred. The report recommended the implementation of system enhancements to support planning staff to submit mandatory referrals.

Recommendation no.1

2.67 The National Disability Insurance Agency review and update the ICT system controls relating to recording participant planning considerations and approvals, to align the system processes with internal policy requirements and to better support planning processes for reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed.*

2.68 *The NDIA has commenced a program of work to design and implement improvements to the ICT systems used for participant planning. This program of work is currently in its design phase and includes a stream of work focussed on the design of planning process.*

2.69 *The program will include appropriate preventive controls, processes, data pre population and system edits to support the end-to-end participant planning process and transition off-system processes to the new system. The design phase will integrate the system controls improvements identified in ANAO's findings.*

2.70 *The system configuration for plan delegate limits was realigned to the Instrument of Delegation during the course of the audit.*

3. Oversight of reasonable and necessary supports

Areas examined

This chapter examines whether the National Disability Insurance Agency (NDIA or the Agency) has appropriate oversight to ensure supports in participant plans are ‘reasonable and necessary.’

Conclusion

The NDIA does not yet have appropriate oversight mechanisms in place to ensure the supports in participant plans are reasonable and necessary. The NDIA has established some frameworks for oversight and control of decision-making for participant plans; however, to date, this is not systematically leading to enterprise wide actions for improvement and compliance in decision-making.

Areas for improvement

The ANAO made two recommendations aimed at: establishing mechanisms to track and analyse issues arising from review mechanisms to inform continuous improvement in reasonable and necessary decision-making; and improving performance metrics and reporting for reasonable and necessary decisions.

The ANAO also suggested that there would be merit in the NDIA analysing data and information from AAT application early resolution decisions and hearing outcomes, and using this to inform continuous improvement in reasonable and necessary decision-making. There would also be merit in the NDIA collecting lessons learnt from each review process to understand key themes and conduct further root cause analyses.

3.1 To determine whether the NDIA has appropriate oversight for reasonable and necessary supports in participant plans, the ANAO examined whether:

- the NDIA has appropriate quality assurance processes for participant plans;
- reviews of participant plans and planning processes inform continuous improvement in reasonable and necessary decision-making; and
- there is appropriate performance monitoring and reporting for participant plans.

Does the NDIA have appropriate quality assurance processes for participant plans?

The NDIA had implemented a largely appropriate quality assurance process for participant plans. There is not enough evidence that quality assurance activities lead to action taken to resolve the issues identified and systemic improvement. As the NDIA had recently commenced continuous improvement processes, it was not evident what impact these processes have had to date.

3.2 Government entities use quality frameworks to ensure their decisions and transactions are accurate, consistent, and comply with relevant legislation and policies. The successful implementation of quality systems and processes into a government entity provides a basis for

those that interact with the entity to have confidence in the advice and services provided.³⁶ To be effective, a quality system needs to be fit-for-purpose, implemented, and have in place monitoring and reporting mechanisms.

3.3 Quality assurance activities can contribute to achieving key aspirations set out in the NDIA's Corporate Plan 2020–24, to deliver a quality service for participants under a financially sustainable Scheme. This includes ensuring reasonable and necessary supports are within the Scheme funding envelope and that robust processes and the control environment lessen the risk of erroneous payments.³⁷

3.4 The ANAO examined whether the NDIA has established and implemented an appropriate quality management framework, focussing on:

- the quality management framework and quality assurance activities undertaken;
- monitoring and reporting of quality assurance activities;
- how quality assurance activities inform continuous improvement; and
- what action is taken in response to non-compliance identified through quality assurance activities.

Quality assurance for participant plans

3.5 The NDIA developed the Internal Quality Management Framework (the Framework) in August 2017, to promote 'a continuous improvement and feedback culture that includes internal assessment processes, mechanisms to gain feedback from participants, stakeholders and staff and reports on both quality and sustainability'.

3.6 In April 2019, the NDIA finalised the *Participants and Planning Experience Line 1 Quality Assurance Strategy 2019–20* (the Quality Assurance Strategy). The Quality Assurance Strategy was developed 'to drive continuous improvement and enhance the quality of decision-making, participants' experience and Scheme sustainability'. The strategy has four high-level objectives, informed by four of the five aspirations in the NDIA's 2019–23 Corporate Plan: Participant Experience; Sustainability; Stakeholder Confidence; and Capability. The Quality Assurance Strategy sets out focus areas and measures relating to accuracy, consistency and compliance of reasonable and necessary decisions.

3.7 The Quality Branch Audit Program includes:

- bi-monthly 'end-to-end' audits of a sample of participant plans;
- targeted 'hot-spot' audits; and
- partner plan quality audits.

3.8 End-to-end audits, conducted on a two-month cycle, are the NDIA's primary quality assurance activity for participant plans. End-to-end audits review a random sample (stratified by

36 ANAO, *Insights from reports tabled October to December 2018* [Internet], 2019, paragraphs 12, available from: <https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-october-to-december-2018> [accessed 4 May 2020].

37 NDIA, Corporate Plan 2020–2024 [Internet], 2020, p. 19, available from: <https://www.ndis.gov.au/about-us/publications/corporate-plan> [accessed 31 August 2020].

region) of two and a half per cent of plans approved in the previous 90 days (approximately 800 to 1300 plans each cycle). Smaller samples of plans approved by the Complex Support Needs (CSN) Team (sample of 100 plans), High Decision Delegate (HDD) Team (100 plans) and the Planning Assurance Team (100 plans; see paragraph 3.16 below) are analysed and reported on separately, using the same process to test these cohorts.³⁸ Early Childhood Early Intervention (ECEI) plans are excluded from the sample, and tested as part of the partner plan quality audit program.

3.9 Hot-spot audits also consist largely of a review of a participant plan sample (200 to 250 plans), but are focussed on a particular issue or risk to Scheme sustainability that has been identified through various avenues, including: flow-on issues from previous audits or assurance activities; Annual Financial Sustainability Report (AFSR) recommendations; items in the Continuous Improvement Register; or from discussion with the Office of the Scheme Actuary.

3.10 During the course of the audit, the partner plan quality audit program was implemented and the first audits began in April 2020.³⁹ As part of this program, a sample of plans (2.5 per cent of initial plans and plan reviews) are audited by Partners in the Community staff and overseen by the Quality Branch. ECEI participant plans are included in the audit plans sampled. These plan types had not been subject to regular quality assurance activity before this program was introduced.

Quality Branch Audit Program

3.11 The end-to-end audit process aims to ensure that planners and delegates are complying with legislation, and internal procedures and guidance. The end-to-end audit guide contains the list of (approximately 50)⁴⁰ questions to be tested against each plan, the rationale behind the question, and necessary criteria to answer it, with the aim of improved inter-office auditor consistency.

3.12 Table 3.1 sets out three questions from the end-to-end audit guide, which are the primary metrics used by the NDIA to measure reasonable and necessary decision-making compliance. Additional end-to-end audit questions were discussed in Chapter 2.

Table 3.1: Key audit questions used in the end-to-end audit program

Question code	Question
BD01	Have justifications been recorded specific to a participant's individual circumstances?
BD04	Have justifications been recorded that demonstrate why the support is considered reasonable and necessary?
BD09	Where the plan budget exceeds the TSP, is there sufficient justification/evidence to support this variation?

Source: NDIA Quality Branch End-to-End Quality Plan Audit Guide.

38 The NDIA advised that due to 40 Quality Branch staff being redeployed from 27 April to 19 June as part of the NDIA's response to the COVID-19 pandemic, the branch was maintaining the audit program at a reduced level. During the May/June audit cycle, the end-to-end audit sample was reduced to 400 end-to-end plans, and 100 plans each for CSN, HDD and Planning Assurance teams.

39 The partner plan quality audit program differs from the end-to-end audit program in that partners self-audit (with oversight by NDIA quality officials) using tailored audit questions.

40 The number of questions used in the audit guide fluctuates as questions are added, amended and removed over time, but tends to stay just below or above 50.

3.13 Question BD09 most directly relates to plan funding (and hence sustainability of the Scheme), but is limited to testing the sufficiency of the justification or evidence provided for the inclusion of these supports. Questions BD01 and BD04 most directly relate to reasonable and necessary supports and are used by the NDIA to inform the internal KPI for reasonable and necessary decision-making (see from paragraph 3.91). These questions also relate to Scheme sustainability, as funded supports that do not meet the legislated criteria put an additional burden on overall Scheme projected costs.

3.14 The end-to-end audit questions are designed to test whether internal procedures and guidance are followed in making decisions to approve reasonable and necessary supports. Non-compliance with these questions shows that the justification provided has not sufficiently demonstrated whether the supports are reasonable and necessary. Quality audits do not assess whether supports are reasonable and necessary, instead testing if the documentation of the decision is sufficient and relevant. The outcome of the internal quality assurance process will not provide information to the NDIA if the supports have been incorrectly funded under the criteria in subsection 34(1) of the *National Disability Insurance Scheme Act 2013* (NDIS Act or the Act), or if the supports are correct.

3.15 The NDIA advised that the agency considers compliance with internal procedural requirements to be inherently equivalent to complying with the provisions of the Act. Relying on compliance with NDIA procedures requires high levels of confidence in the effectiveness and appropriateness of other controls (such as completeness of planning records, planner training and quality assurance processes). The low levels of compliance with internal procedural requirements found in the quality assurance testing (see Table 3.2), does not provide sufficient confidence in the existing controls for assurance to be gained that decisions made are complying with the Act.

3.16 In March 2020, the NDIA implemented a new pre-plan approval quality assurance process. The Planning Assurance Team is anticipated to consist of around 70 staff when fully established. The team directly tests a sample of plans and supports included against questions correlating to criteria set out in the Act before the plan is approved and funded. The NDIA advised that the Planning Assurance Team was established in response to the ANAO's financial statements audit.⁴¹

3.17 As hot-spot audit topics are varied and can be specific to a particular issue, cohort or process, many of these indirectly examine reasonable and necessary supports. Some hot-spot audits have specifically investigated reasonable and necessary decisions. One hot-spot audit conducted in June 2019 reviewed the supports included in 200 'overvalued'⁴² plans, finding errors related to reasonable and necessary decisions in 55 per cent of these plans. Another hot-spot audit conducted in November 2019 reviewed 200 plans for participants under 18 years of age receiving high-valued core supports. In this instance, the report found a lack of understanding of mainstream and informal supports, leading to funding decisions that do not meet requirements under the Act, and recommended clearer guidance is provided to enable more consistent decision-making.

41 Auditor-General Report No.33 2016–17 *Audits of the Financial Statements of Australia Government Entities for the period ending 30 June 2016*, pp. 259–260.

42 The NDIA hot-spot audit team used a set of five criteria to identify plans considered 'overvalued', such as significant under-utilisation and increased plan value over three reviews.

Reporting of quality assurance activities

3.18 Regular reporting activities conducted by the Quality Branch include quarterly reporting to NDIA senior leadership, monthly reporting to the Executive Leadership Team (ELT) (discussed from paragraph 3.94) and routine reporting to branch and group-level executives. The Quality Branch reports on end-to-end audit findings through Plan Approval Decisions reports on a quarterly basis to the ELT and Risk Committee. Bi-monthly National Summary reports (and mid-cycle updates in every alternate month) give detailed end-to-end audit results and are provided to the General Manager, National Delivery (then provided to state managers, who sit in the National Delivery Group).

3.19 Compliance rates reported through the Plan Approval Decisions reports can appear higher than bi-monthly audit cycle results. This is because BD04 is not reported as a standalone item but averaged with BD01 (see Table 3.1 for a description of the BD items) to calculate the overall result for 'Funded supports are reasonable and necessary'. Results are presented on a quarterly basis in these reports, with the figures for each quarter previously taken from a select two-month period within that quarter (end-to-end audits are conducted on a bi-monthly cycle). This system omitted reporting the results for some of the bi-monthly end-to-end audit cycles. The NDIA advised that for the 2020–21 year, the figures for each quarter would be reported in either a two or four-month period. This new approach will mean that the results from all end-to-end audit cycles will now be captured through the reports.

3.20 The NDIA advised in June 2020 that audit report results are regularly shared across the agency. Hot-spot audits are reported to ELT for management action, as well as being shared with relevant business areas.

3.21 The end-to-end audit results are also used to measure the NDIA's internal KPI for reasonable and necessary decision-making — the percentage of participant plans with adequate justification in the decision (KPIs are discussed from paragraph 3.91 below).

Continuous improvement

Continuous improvement register

3.22 Both the Quality Management Framework and Quality Assurance Strategy outline a focus on continuous improvement. Continuous improvement forms part of the intent of both documents, with the Framework noting it was 'designed to support continuous improvements that benefit people with disability, their family and carers' and the Strategy driving 'continuous improvement and enhance the quality of decision-making, participants' experience and Scheme sustainability.'

3.23 A continuous improvement register was introduced by the Quality Branch in late 2019. The NDIA advised that the continuous improvement register and state action plans superseded National Quality Action Plans.⁴³

43 Prior to the continuous improvement register, National Quality Action Plans (which fell under the Quality Management Framework) outlined quality assurance and continuous improvement activities to be undertaken each year. Unlike the National Quality Action Plans, the continuous improvement register is planned to be updated on a regular basis.

3.24 At the time of the audit, the NDIA was in the process of implementing a National Quality Continuous Improvement Framework. This aims to ensure audit findings are translated into practice and performance improvements, and includes guidance for adding issues to the state action plans and, as required, to the continuous improvement register for action.

3.25 As the process was introduced during the course of the audit and had not been fully implemented⁴⁴, it was not possible to conduct a detailed analysis on the function and use of the register. The NDIA advised that the continuous improvement register is a national-level spreadsheet that aims to track identified issues, informed by a system of state-based documents called state action plans. State quality teams maintain the action plans with input from quality assurance audit recommendations. Items not addressed by the state offices are planned to be escalated through the continuous improvement register. While the process is not yet fully embedded and state action plans are not yet used consistently by regions, amending the templates to capture issues cumulatively (including closed issues) would improve tracking and reporting of activities over time.

3.26 Active monitoring of quality assurance process implementation by agency leadership positively impacts organisational culture, assisting to embed the process into business as usual.⁴⁵ The ANAO was unable to confirm how the state action plans or register are reported, or intend to be reported, to senior management. The planned National Quality Continuous Improvement Framework presents an option for escalating issues meeting certain criteria to the agency executive, and notes an intention to update branch and agency-level executives on continuous improvement work on a regular basis.

3.27 At the time of the audit, the NDIA did not have a fully functioning and systematic method of identifying and implementing opportunities for improvements related to reasonable and necessary supports. However, from information available at the time of audit reporting, work currently underway in the NDIA is aimed at building a continuous improvement system consistent with the Quality Assurance Strategy.

Action against non-compliance

3.28 The NDIA has a High Risk Register, through which high risks identified in individual participant plans can be escalated and addressed. The register, in place since March 2019, is used to escalate issues that are deemed ‘a significant risk to the participant or the agency’s financial sustainability’.

3.29 Risk ratings are recorded as part of quality assurance activities to identify particular cases that require escalation. Standard operating procedures were developed in December 2019 as a result of an item on the continuous improvement register noting inconsistencies in how state offices managed high risk plans.

3.30 Analysis of the risk register found that the majority (87 per cent)⁴⁶ of high risks recorded pertained to financial sustainability and reasonable and necessary supports. Common avenues for

44 The NDIA advised that the National Quality Continuous Improvement Framework was due to be finalised in the first quarter of 2020–21.

45 ANAO, *Insights from reports tabled October to December 2018* [Internet], 2019, paragraph 4, available from: <https://www.anao.gov.au/work/audit-insights/insights-reports-tabled-october-to-december-2018> [accessed 15 June 2020].

46 Of a total of 68 recorded risks.

addressing risks included providing feedback to the planner, referral to service delivery delegate to identify if an unscheduled plan review is necessary (subsection 48(4)), seek further evidence of participant disability/application of supports, or scheduling an unscheduled plan review.

3.31 As at February 2020, 72 per cent of risks identified had been closed since the register started. It was not possible to conduct analysis on the timeframes taken to address the risks as the register did not record the date that risks are forwarded for action (or added to the register), only in what month or cycle they were identified.

Low compliance with reasonable and necessary metrics

3.32 Results from quality assurance activities have consistently shown a low level of compliance with two of the three reasonable and necessary-related metrics. Compliance rates since March 2019 are shown in Table 3.2 below.

Table 3.2: Compliance rates recorded through end-to-end audits March 2019 to February 2020

Test question from NDIA end-to-end audit	Mar 2019	Apr/May 2019	Jun 2019	Jul/Aug 2019	Sep/Oct 2019	Nov/Dec 2019	Jan/Feb 2020
Have justifications been recorded specific to a participant's individual circumstances? (BD01)	85%	86%	83%	80%	79%	81%	83%
Have justifications been recorded that demonstrate why the support is considered reasonable and necessary? (BD04)	72%	68%	63%	50%	35%	32%	36%
Where the plan budget exceeds the TSP, is there sufficient justification/evidence to support this variation? (BD09)	—	—	—	65%	58%	51%	58%

Note: While the end-to-end program moved to a bi-monthly cycle as of the April/May reporting period, June 2019 was run as a standalone cycle to test changes made to the audit guide prior to the new financial year. For periods marked with a dash, this question was not included in the audit guide as yet. Question BD09 was incorporated into the end-to-end audit process as part of the transfer of Plan Approval Decisions testing and reporting to the Quality Branch from the Controls Assurance Branch in July 2019. A new baseline was established as the Quality Branch continued the reporting with the end-to-end audit methodology and sampling procedures.

Source: NDIA Bi-monthly end-to-end audit reporting.

3.33 Early results of audits conducted on plans approved by the CSN and HDD teams show lower results for the same audit questions, with reasonable and necessary justifications recorded in three per cent of CSN team plans and 11 per cent of HDD team plans for the March/April 2020 period. Compliance rates for these cohorts are shown in Table 3.3.

Table 3.3: Compliance rates recorded through HDD and CSN teams end-to-end audits January to April 2020

Test question from NDIA end-to-end audit	Jan/Feb 2020		Mar/Apr 2020	
	HDD	CSN	HDD	CSN
Have justifications been recorded that demonstrate why the support is considered reasonable and necessary? (BD04)	12%	5%	11%	3%
Where the plan budget exceeds the TSP, is there sufficient justification/evidence to support this variation? (BD09)	43%	38%	26%	18%

Note: These audits are conducted on a much smaller scale than the standard end-to-end audits. The sample size for the four periods included averaged 100 plans.

Source: NDIA bi-monthly audits of HDD and CSN team plans.

3.34 There was evidence of low compliance levels being reported through end-to-end National Summary reports dating back to November 2018. As mentioned at paragraph 3.18 above, the results of end-to-end audits are reported to senior leadership through Plan Approval Decisions reports, which do not report on BD04 as a standalone item. Compliance rates as reported in these reports are shown in Table 3.4 below.

Table 3.4: Compliance rates as reported through Plan Approval Decisions reports

Plan Approval Decisions test	Target	Q1	Q2	Q3
		FY2019–20	FY2019–20	FY2019–20
Plan budget variances to TSP are justified and evidenced — BD09 (critical test)	80%	58%	51%	58%
Funded supports are reasonable and necessary — avg. of BD01 and BD04	70%	57%	57%	60%

Source: ANAO based on NDIA plan approval decisions reports (business assurance reporting).

3.35 In Plan Approval Decisions reports, each test is assigned a risk status of ‘Inform’, ‘Watch and Act’, or the highest rating ‘Escalate’. Tests are escalated to senior leadership in the relevant business area responsible for the subject area where tests record a below-target result and results have declined over two cycles. The two tests discussed did not reach ‘Escalate’ status in the reports reviewed as results had not declined over two consecutive cycles. All three reports identified BD09 as an item for further investigation due to its ‘low pass rate’, stating that the issue had been added to the continuous improvement register and action plans for action. There was not a reference to this particular item (nor low compliance rates for BD01/BD04) in the continuous improvement register provided.

3.36 While low compliance rates for the above tests had not been recorded in the continuous improvement register (at a national level), the issue of auditor-consistency had been. A review of a small sample of audited participant plans was conducted by the NDIA in November 2019 in response to an item on an action plan identifying inconsistencies between state auditing teams on items relating to reasonable and necessary supports. The NDIA concluded that auditing practice was the likely cause; the inconsistencies identified were more likely due to officials undertaking audits in some states routinely assessing plans in a more favourable manner than other states.

3.37 In addition to the mechanisms already in place, the NDIA has, through the continuous improvement register, put into action additional strategies to raise consistency of audits across

states. These include tailored training and coaching, and engagement with specialist areas and advisory teams.

3.38 During the course of the audit, the NDIA implemented strategies and processes to improve low compliance rates with regards to reasonable and necessary supports. These included:

- updating internal guidance to clarify justification requirements for reasonable and necessary supports;
- commissioning a research project to develop and improve upon internal guidance and budget planning tools that started in mid-June 2019; and
- developing new and improving existing staff training opportunities and materials.

3.39 The ANAO is not aware of any further analysis into the root cause of the low compliance levels. As discussed in paragraph 3.14, end-to-end audits do not determine whether supports in a given participant plan are reasonable or necessary under subsection 34(1) of the Act, but whether there is sufficient justification provided for these supports. Without knowing the cause of low compliance rates, it will be challenging for the NDIA to address the quality issues.

Do reviews of participant plans and planning processes inform continuous improvement?

While the NDIA had some mechanisms for review processes to inform continuous improvement in decision-making for reasonable and necessary supports, these are not considered at an enterprise level and their impact is unclear.

3.40 Internal and external review processes provide an opportunity for errors in individual cases to be remedied and also generate information that could inform broader process improvement and assist with transparency in decision-making. This is particularly important where decision-making criteria are complex, subjective or have a significant impact on the daily lives of affected individuals.⁴⁷ Analysing the outcomes of these reviews to determine the impact and quality of the original reasonable and necessary decision made is a useful basis to inform continuous improvement activities.

3.41 The outcomes of internal reviews and external appeals of decisions can also serve as an indicator of the quality of the guidance and other mechanisms in place to support accurate decision-making. Establishing suitable tools to communicate the outcomes of review and appeal decisions can also serve as a mechanism to enable continuous improvements in reasonable and necessary decision-making.

3.42 To assess whether the reviews of participant plans and planning processes inform continuous improvement, the ANAO examined whether the NDIA:

- tracked and analysed outcomes from various review mechanisms; and
- used the data to inform continuous improvement of decision-making for reasonable and necessary supports.

⁴⁷ Commonwealth Ombudsman, *Administration of reviews under the National Disability Insurance Scheme Act 2013*, May 2018, p. 4.

Review mechanisms for participant plans

3.43 The NDIS Act sets out mechanisms relating to the review of a participant's plan and the reasonable and necessary supports provided through the plan, including:

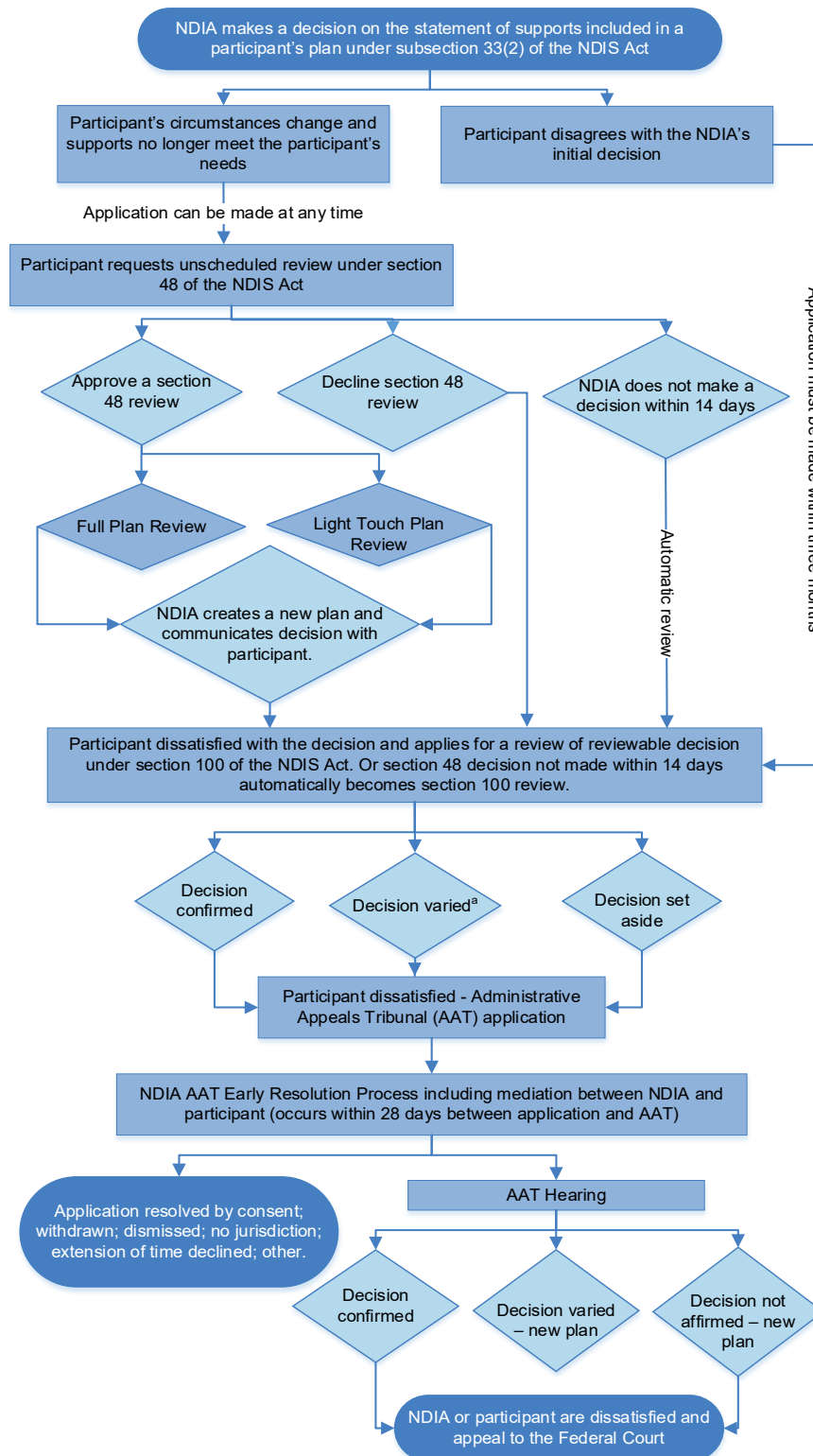
- unscheduled plan reviews under section 48 of the Act;
- reviews of reviewable decisions (internal reviews) under section 100 of the Act; and
- Administrative Appeals Tribunal (AAT) applications.

3.44 Unscheduled plan reviews can be initiated at any time either by the participant or the NDIA in response to changes in participant circumstances. If the NDIA makes a decision to accept a participant's request for a review, the NDIA will undertake a review and may provide the participant with a new plan and new statement of supports. If the NDIA does not make a decision to undertake an unscheduled plan review within 14 days, the NDIA is taken to have made an automatic decision to decline the request, which will be subject to internal review (under section 100).

3.45 An internal review may be requested by a participant if they are unsatisfied with a decision the NDIA has made in the preceding 100 days. The NDIS Act sets out 33 instances where the Agency may make a reviewable decision; this includes decisions regarding reasonable and necessary supports in a participant plan (as well as the outcome of a section 48 review). A request for an internal review must be made within three months of the participant receiving notice of the decision. The NDIA may confirm, vary or overturn the original decision as an outcome of the review.

3.46 If a participant is not satisfied with the outcome of an internal review, they may apply to the AAT for an external merits review of their specific case. If a participant or the NDIA are unsatisfied with the outcome of an AAT hearing, they can appeal to the Federal Court for a judicial review, with the case considered as a question of law.

3.47 Figure 3.1 sets out the review pathway options for reasonable and necessary decisions made in approving a participant's plan.

Figure 3.1: NDIA participant review pathway

Note a: A varied outcome does not apply for s100 reviews that relate to a declined section 48 review outcomes.

Note: At any stage, a participant may be satisfied with the decision made by the NDIA and may not progress through to the next review process.

Source: ANAO based on NDIA documentation.

3.48 Merits review tribunals, such as the AAT, exercise administrative power and not judicial power, meaning decisions are not precedent setting. While decisions do not create legally binding precedents, a central purpose of the merits review process is to improve agencies' decision-making, generally by correcting errors and modelling good administration.⁴⁸

3.49 The NDIA's administration of unscheduled plan reviews and internal reviews was the subject of a May 2018 investigation by the Office of the Commonwealth Ombudsman (the Ombudsman).⁴⁹ The Ombudsman 2018 report noted that the Agency's administration of reviews represented around 32.5 per cent of all complaints made about the NDIA to the Ombudsman and highlighted issues in delays in completing such reviews. Completion of some reviews took up to nine months, creating a high volume backlog requiring priority action. The Ombudsman noted that the majority of complaints involved decisions to approve a statement of supports, or decisions on requests for an unscheduled plan review.

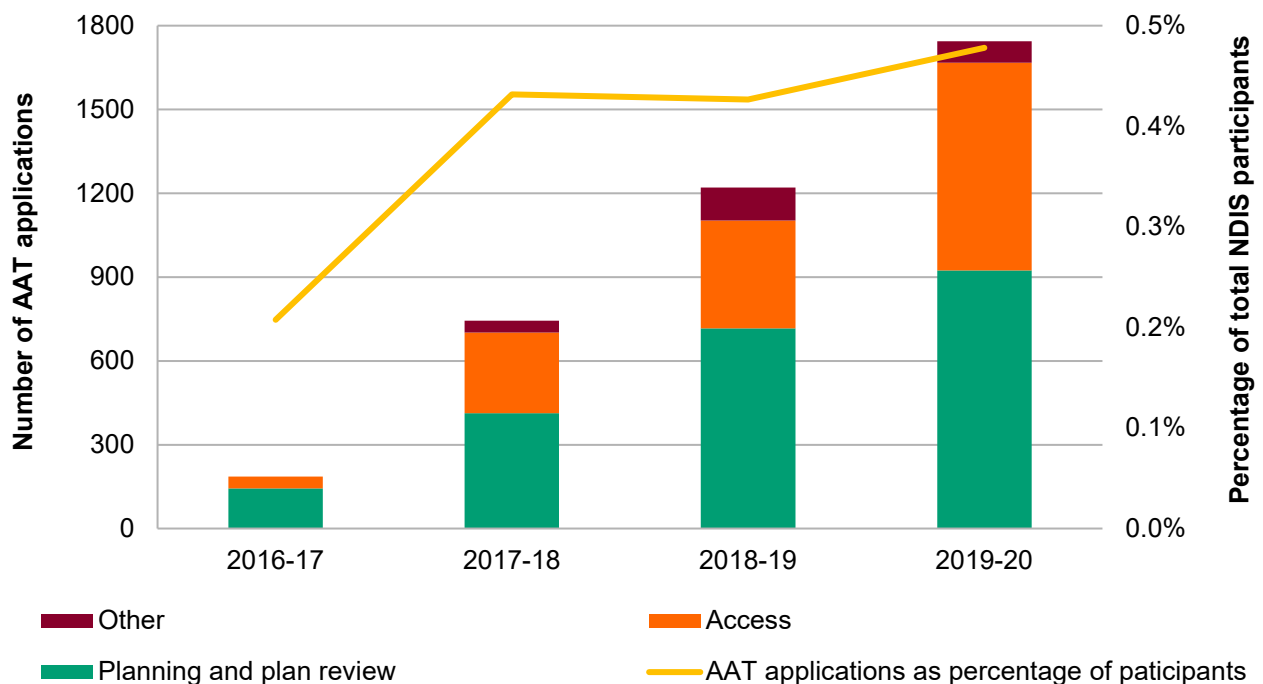
3.50 The NDIA implemented a range of activities to remediate the backlog of reviews, including the Early Resolution Project in May 2018, and establishing the National Review Team in February 2019, which were designed to address challenges identified in decision-making processes. NDIA internal audit findings from February 2020 indicate the Agency continues to experience an increased backlog of reviews of reviewable decisions primarily relating to Scheme access or plans, correlating in a backlog of AAT applications lodged by participants.⁵⁰

3.51 The number of AAT applications lodged by participants over the past four years is shown in Figure 3.2. From July 2016 to June 2020, 56 per cent of 3894 AAT applications related to planning and plan review. In 2019–20, the NDIA received 811 AAT applications relating to planning and 113 relating to plan review.

48 Administrative Review Council, *Decision Making: Accountability Best-practice guide 5*, August 2007.

49 Commonwealth Ombudsman, *Administration of reviews under the National Disability Insurance Scheme Act 2013*, May 2018.

50 Under subsection 100(6) of the NDIA Act, a reviewer is required to undertake a review of a reviewable decision 'as soon as reasonably practicable'. A participant may lodge an AAT application prior to receiving confirmation that a review of a reviewable decision has been made, under subsection 25(5) of the *Administrative Appeals Tribunal Act 1975*, if the participant believes the review has not been undertaken as soon as reasonably practicable.

Figure 3.2: AAT applications July 2016 to June 2020

Source: ANAO analysis of NDIA data.

3.52 The ANAO has previously examined the NDIA's processes for internal reviews in relation to access decisions.⁵¹ At the time of the report, the NDIA was found to not have in place efficient or effective processes for internally reviewing access decisions; however, it was also noted that the NDIA was reviewing processes to improve quality assurance processes for internal reviews of access decisions. The scope of this audit includes data from reviews being used to inform continuous improvement and does not assess the Agency's administration of reviews.

Tracking, aggregating and analysing the outcomes from review mechanisms

Unscheduled plan reviews under section 48 of the Act

3.53 The National Review Team (NRT) was established in February 2019 to deliver a streamlined and consistent approach to the triage and management of unscheduled plan reviews. The NRT makes a decision on a plan review request to determine if a change of circumstances has occurred that requires the NDIA to reassess the participants support needs. The consideration of supports is conducted by the delegate responsible for the unscheduled plan review. The NRT does not generally consider reasonable and necessary supports; however, there is a small team within the NRT who action requests for changes to plan management through a Light Touch Plan Review and approve a new participant plan. In these circumstances reasonable and necessary supports are considered as part of this change.

3.54 The NRT conducts analysis, performance monitoring and reporting of section 48 decision timeframes, conducts internal quality assurance activities, and manages training and process development. Information is included in monthly performance reporting to the ELT and Board.

51 Auditor-General Report No. 13 2017–18, *Decision-making Controls for Sustainability — National Disability Insurance Scheme Access*, available at: <https://www.anao.gov.au/work/performance-audit/decision-making-controls-sustainability-ndis> [accessed 17 August 2020].

Metrics primarily focus on the timeliness of triage activities and the volume and timeliness of section 48 unscheduled reviews.

3.55 In January 2020, a Weekly Pulse Report was introduced to provide the ELT with information on key volumes and backlogs within the NDIA, including for unscheduled plan reviews and internal reviews (reviews of reviewable decisions). The Weekly Pulse Report aims to track performance against targets and includes an expected trajectory of improvement based on remediation activities for review processes aimed at reaching the targets set.

Internal reviews — reviews of reviewable decisions under section 100 of the Act

3.56 When a request for internal review is received, it is then triaged and actioned by a reviewer within the Internal Review Team (IRT) who is independent from the original decision-maker. As set out in subsection 100(6) of the NDIA Act, the reviewer must make a decision to:

- confirm the reviewable decision;
- vary the reviewable decision; or
- set aside and substitute the original decision.

3.57 The internal review process and outcomes provide an opportunity for the NDIA to identify trends in the application of NDIA guidance in justifying a reasonable and necessary support, which may be useful in informing continuous improvement for decision-making.

3.58 The decision outcomes from internal reviews completed between 15 April 2019 (when the IRT commenced) and 30 June 2020 are set out in Table 3.5.

Table 3.5: Decision outcomes from internal reviews completed between April 2019 and June 2020

Decision outcome	Number of completed s.100 plan requests	Percentage of total s.100 decisions
Varied	26,946	63%
Confirmed	8184	19%
Withdrawn by participant	7938	18%
Total	43,068	100%

Source: ANAO based on NDIA advice.

3.59 Internal review data is provided to the ELT and the NDIA Board in the Monthly Pulse Report, which primarily focuses on timeliness and volume. It does not identify systemic or thematic issues in decision-making. Internal review data is also included in the Weekly Pulse Report, intended to manage the Agency's key volumes and backlogs.

3.60 In March 2020, the NDIA undertook some root cause analysis relating to internal review requests. The NDIA examined the cohorts of participants with higher instances of internal review applications and compared these to results from the NDIA's longitudinal participant satisfaction survey. Results indicated a correlation between participant responses to the survey and the internal review dispute rates for four cohorts of participants.⁵² As a result of this analysis, the NDIA is

52 The four cohorts were: participants on second review onwards; participants aged seven to 14 years; participants with one of two specific primary supports; and participants who had been in the Scheme for one to three years.

planning to undertake remediation activities within five key themes identified: improved decision-making; improved communication with participants; greater investment in capacity building; overhaul support coordination; and a targeted approach to youth.

Administrative Appeals Tribunal applications and decisions, early resolution and hearings

3.61 The AAT early resolution model was developed by the NDIA to resolve AAT applications as soon as possible within the 28 day period between receiving notification of the application and the date for filing documents with the tribunal. Since implementation of the early resolution model in May 2018, NDIA documentation shows there has been a reduction in the number of AAT matters with lengthy delays in internal review decisions made by the NDIA. From July 2016 to June 2020, 1820 AAT applications relating to planning had been closed, with 1189 cases (65 per cent) being resolved by consent without progressing to a formal hearing. The decision outcomes from AAT applications completed between July 2016 and June 2020 are set out in Table 3.6.

Table 3.6: Decision outcomes from AAT applications related to participant plans completed between July 2016 and June 2020

Decision outcome ^a	Number of finalised AAT applications	Percentage of total AAT applications finalised
Decided by tribunal		
Affirmed	10	0.6%
Varied	9	0.5%
Set aside	15	0.8%
Not decided by tribunal		
Resolved by consent ^b	1189	65.3%
Withdrawn	479	26.3%
No jurisdiction	73	4.0%
Dismissed	43	2.4%
Other — no outcome recorded by the NDIA	2	0.1%
Total	1820	100%

Note a: Where the AAT affirms a decision, it has found the NDIA made the correct decision. In varying a decision, the AAT find that the NDIA's decision should be altered and where a decision is set aside the AAT finds that the NDIA's decision is either wholly or partially incorrect.

Note b: Where an application is resolved by consent, the NDIA engages with an applicant or their representative to agree to a resolution prior to attending an AAT hearing.

Source: ANAO analysis of NDIA data.

3.62 Of the 34 cases that went to an AAT hearing, the decision outcomes as a percentage of the total cases are set out in Table 3.7.

Table 3.7: Decision outcomes from AAT reviews related to participant plans completed between July 2016 and June 2020

Decision outcome	Number of finalised AAT hearings	Percentage of total AAT hearings finalised
Affirmed	10	29.4%
Varied	9	26.5%
Set aside	15	44.1%
Total	34	100%

Source: ANAO analysis of NDIA data.

3.63 Information relating to AAT reviews is included in Monthly and Weekly Pulse Reports to the ELT and Board. The monthly report includes:

- total number of AAT cases over time broadly categorised as Scheme Access, Plan, Plan Review and Other;
- cases not decided by the tribunal broken down into six categories (Resolved by Consent, Withdrawn, No jurisdiction, Extension of time declined, Dismissed and Other); and
- cases decided by AAT tribunal (including hearing decisions Affirmed, Varied or Set aside).

3.64 Aside from the number of cases being categorised by reviewable decision type (for example: Scheme access decisions; reasonable and necessary plan decisions), the number of cases not decided by the tribunal is not reported by decision outcome. It would be useful for informing continuous improvement if the NDIA reviewed the disaggregated data by decision type, to get a clearer understanding of the outcomes of reasonable and necessary decisions that have been subject to application for review by the AAT.

3.65 Where an AAT application is resolved by consent, the NDIA early resolution team will engage directly with the applicant (or representative) in order to resolve the matter, prior to AAT involvement. If resolved, the participant will receive a written agreement and a new plan. With the increasing volume of AAT applications, there would be merit in the NDIA analysing data and information from early resolution decisions and hearing outcomes, and using this to inform continuous improvement in reasonable and necessary decision-making.

3.66 Analysis of themes and trends in AAT litigation was provided to the NDIA Risk Committee in November 2019. The paper identified five themes across planning decisions relating to reasonable and necessary supports, noting risks where the AAT decided on costs that were additional to those originally modelled by the Productivity Commission.⁵³ The paper noted that these themes posed significant Scheme sustainability risks, particularly if the decision was applied to broader cases. However, the full impacts had not been formally modelled by the Office of the Scheme Actuary at the time of the Risk Committee update. In response to one of these themes, the NDIA had

⁵³ Prior to the establishment of the NDIA, the Productivity Commission was asked by the Australian Government to carry out an inquiry into a long-term disability care and support scheme in 2011. This inquiry included cost estimates and financial modelling. See Productivity Commission, *Disability Care and Support*, Canberra, 2011 pg. 747–786, available from <https://www.pc.gov.au/inquiries/completed/disability-support/report/disability-support-volume1.pdf> [accessed 19 August 2020].

developed an interim policy confirming that delegates should consider the ‘whole person’ when determining reasonable and necessary supports.

Federal Court referral

3.67 At the time of the audit, the NDIA had attended one case presented to the Federal Court of Australia related to reasonable and necessary supports.⁵⁴ The Federal Court ruled that that if a support is determined to be reasonable and necessary the NDIA must fund 100 per cent of that support and not a partial contribution to support costs. The Federal Court referred the case back to the AAT for further hearing.

3.68 In response to the Federal Court ruling, the NDIA Board was presented a paper in September 2019 that outlined a remediation plan to improve the guided planning process to better align transport supports with the NDIS Act, and the Council of Australian Governments (COAG) Disability Reform Council Applied Principles and Table of Supports. As well as updated process and guidance, the remediation plan includes a three phase approach to address issues with higher risk cohorts in the short and medium term.

Internal reporting of review processes

3.69 Review teams collect and analyse data at a working level, which is provided to senior leadership, primarily through the monthly and weekly pulse reports. Information provided to senior committees focuses on key backlogs, case volumes and timeliness, and includes analysis and reporting of thematic or systemic issues regarding reasonable and necessary decisions in reviews on an irregular basis.

3.70 More detailed data on the reasons for changes in decisions from internal review and appeal processes could improve reasonable and necessary decision-making. Considering the close relationship between each review process, the re-assessment of original decisions during these processes and the increasing volume of reviews, there would be merit in the NDIA collecting lessons learnt from each review process to understand key themes and conduct further root cause analyses.

Complaints

3.71 Complaints provide an additional layer of accountability for participants and an opportunity for the NDIA to collect feedback and implement continuous improvement. The NDIA handles complaints from a variety of sources including participants and those made through oversight bodies, the Royal Commission, and ministerial requests.⁵⁵ The NDIA received 25,541 complaints for the 2019–20 financial year.

3.72 In October 2019, the NDIA implemented a new complaints management system, which aimed to allow more functionality and improved data capture. Data is intended to be provided to front line staff to inform better practice and to be incorporated into the NDIS reporting platform, which is available to planners. The NDIA advised that full complaints data became available from mid-March 2020 and some internal reporting using this data had been developed to provide visibility and enable insights for process improvement activities. The NDIA provided three examples

54 *McGarrigle v National Disability Insurance Agency* [2017] FCA 308.

55 Oversight bodies include the Commonwealth Ombudsman and the NDIS Quality and Safeguards Commission. The Disability Royal Commission was established in April 2019 in response to community concern about widespread reports of violence against, and the neglect, abuse and exploitation of, people with disability. The delivery of the Commission’s final report is due to the Australian Government by 29 April 2022.

of reporting for specific business areas since May 2020, relating to home modifications, transport and payments. It is too early to assess how the new complaints data has informed planning or continuous improvement in relation to reasonable and necessary decision-making.

3.73 Complaints data is also reported to the ELT and NDIA Board through the Monthly Pulse Report, with data primarily focussing on the volume of complaints. Complaint topics, for example participant plans or access, are not reported. The NDIA advised that the Office of the Scheme Actuary is enhancing quarterly analysis of complaints to include new data points for wider agency visibility. Complaints data provided to the ELT outlined that the lack of timeliness of review decisions and poor communication of reasons for not including supports in plans were key topics of correspondence to the Minister's Office.

Continuous improvement

3.74 Strong executive leadership and frequent messaging on quality is central to influencing organisational culture, but the leadership of an agency needs to do more than just set requirements. It needs to actively monitor the implementation of these requirements and refine processes when required. When staff have a clear understanding of what is expected of them, as well as clear and unambiguous processes refined through monitoring and continuous improvement, they are more likely to deliver what is expected.

3.75 In examining whether data collected by the NDIA from review mechanisms informed continuous improvement, the ANAO examined: how the findings from various review mechanisms were used to improve participant planning; the process for feeding results back into planning and oversight practices such as policy and guidance materials; corporate projects; and whether the NDIA considers feedback such as complaints from participants.

3.76 As discussed in paragraph 2.11, the NDIA undertakes an annual review of guidance documents. As part of this review, a dedicated continuous improvement team (that started in February 2019) undertakes visits to planning offices, engages with the quality assurance and learning and development teams, and examines data from a range of internal sources. Data examined by the NDIA consists of available enterprise level reporting from review teams that focuses on performance and volume. The Service Guidance and Practice Branch analyse the data available to inform actions for the next quarter.

3.77 In an example provided by the NDIA for quarter three 2019–20, the NDIA noted a correlation between the number of complaints made by a participant and the likelihood of requesting a review (including unscheduled plan reviews, internal reviews, AAT applications). Actions for the next quarter focus on updating key resources to support decision-making. The NDIA noted “complaints themes suggest we need to continue to focus on updating our resources, clear instructions, plain English, good examples to help with decision making and conversations with participants”.⁵⁶

3.78 Measures of success for Service Guidance and Practice include: improved plan quality (fewer errors, audits and compliance checking); positive feedback from Service Delivery on resources; increased hits on resources; and reduced queries on standard operating procedures.

3.79 While each review area conducts its own data collection and analysis, this is primarily focused on process correctness, timeliness and volume of work. Continuous improvement, as it

⁵⁶ NDIA, *Business intelligence Dashboard 2019–20*.

affects planners reasonable and necessary decision-making, is primarily conducted through updating guidance. Data is gathered and reviewed to inform decisions about guidance updates; however, it is unclear how changes to guidance and their impact on planner decisions or review outcomes are monitored. In considering the quality assurance compliance rates (see Table 3.2 and Table 3.3) it is not clear how continuous improvement activities undertaken to date by the NDIA have positively impacted on reasonable and necessary decision-making.

Additional agency projects and audits

3.80 In June 2020, the NDIA began a project to improve determination, transparency and communication of decisions, including for reasonable and necessary supports. The project was established in response to the Tune Review (see paragraph 1.17) and challenges identified more broadly by the sector. The project aims to identify issues and processes that cause uncertainty in decision-making, including through considering unscheduled reviews, internal reviews and AAT cases. The project also aims to undertake root cause analysis for identified and existing issues. While it is too early to assess the project, it provides an opportunity for the NDIA to collect relevant data and have greater insight into planner decisions to better target continuous improvement activities.

3.81 The NDIA also advised in June 2020 that KPIs for the Participant Experience Delivery Group were being updated. The new suite of KPIs includes the percentage of internal reviews that uphold the original decision. The KPI will not report on the split between decisions set aside or varied. Future trends identified through this KPI will provide the NDIA with a useful indicator of the quality of planner decisions for reasonable and necessary supports.

3.82 While not specific to reviews, the NDIA's Annual Financial Sustainability Report (AFSR) identifies pressures relating to Scheme sustainability and potential causes. Recommendations from the AFSR include improving plan value consistency through planner decision-making. The management response to these pressures includes a number of internal projects aimed to assist the NDIA to address inconsistencies in reasonable and necessary decision-making. The AFSR and management response is discussed further from paragraph 3.110.

3.83 As part of the response to the AFSR, the Quality Branch was scheduled to audit the NDIA's review teams and AAT Applications and Decisions Branch individually, with results to be combined into a single report to the Sustainability Committee. While looking at Scheme sustainability, each audit considers reasonable and necessary decision-making. Results of these audits would provide an opportunity for the NDIA to look closer at the correctness of reasonable and necessary decision-making collectively throughout the review process.

Recommendation no.2

3.84 The National Disability Insurance Agency establishes mechanisms to track and analyse (at the enterprise level) issues arising from review mechanisms to inform continuous improvement in reasonable and necessary decision-making, including:

- (a) using outcomes data from internal reviews and AAT reviews, including early resolution outcomes, to inform continuous improvement in reasonable and necessary decision-making; and
- (b) implementing metrics for measuring the success of continuous improvement initiatives to enable the Agency to determine whether the initiatives are having the intended impact.

National Disability Insurance Agency response: Agreed.

3.85 *The NDIA has expanded the role of the Performance Management and Quality Branch to be responsible for all National Delivery and Partner performance, productivity, and quality metrics.*

3.86 *The new branch has responsibility for conducting post decision quality assurance for all planning and review activities. NDIA has commenced a review of the planning quality assurance program to ensure that the outcomes of assurance activity provide a more complete indicator of performance and compliance with NDIS Act.*

3.87 *The revised Performance Management and Quality Branch structure is being implemented to provide capability for root cause analysis of poorer quality planning and performance issues, drive improvements through learning and development and change, and mature tracking and monitoring of actions in the continuous improvement register to address planning issues.*

3.88 *The NDIA has also developed a specific program of work to capture theme and emerging hotspots across complaints, reviews and administrative appeals.*

Is there appropriate performance monitoring and reporting for participant plans?

Since June 2019, the NDIA has been measuring performance of planners in relation to reasonable and necessary decision-making through an internal KPI and a separate quality metric. The underlying input to both performance measures is the same, yet the measures have different targets. The NDIA does not report externally specifically in relation to reasonable and necessary supports in participant plans; however, information more broadly around reasonable and necessary supports is included in external reports.

3.89 Senior management and executive boards require the right information about entity performance to: assist in managing emerging risks; be able to seek further information where needed; and use information to oversee and challenge management. This reporting can assist management to deliver outcomes and assist the Board to meet obligations as the accountable authority.

3.90 In assessing whether the NDIA has appropriate performance monitoring and reporting on reasonable and necessary decisions in participant plans, the ANAO examined whether the NDIA had in place appropriate arrangements for:

- performance monitoring for reasonable and necessary decision-making;
- internal reporting related to reasonable and necessary decisions; and
- external reporting related to reasonable and necessary decisions.

Internal performance monitoring and reporting

3.91 The NDIA established a 'single performance framework' (SPF13) in June 2019 to measure the performance of service delivery for the Scheme. The framework includes 13 KPIs designed to track success in alignment with the corporate aspirations set out in the NDIA 2019–23 Corporate Plan. There is one KPI relating to reasonable and necessary decisions, which is set out in Table 3.8. The NDIA advised that prior to June 2019, there was no KPI established that related to reasonable and necessary decision-making; however, quality assurance teams did complete testing of reasonable and necessary decision-making prior to this date. The NDIA was not able to provide the method through which the KPI11 target of 70 per cent was set.

Table 3.8: Internal KPI for reasonable and necessary decisions

Corporate aspiration	KPI	KPI target
A Financially Sustainable Scheme	KPI 11: % of Participant plans with adequate justification in decision	70%

Source: ANAO based on NDIA documentation.

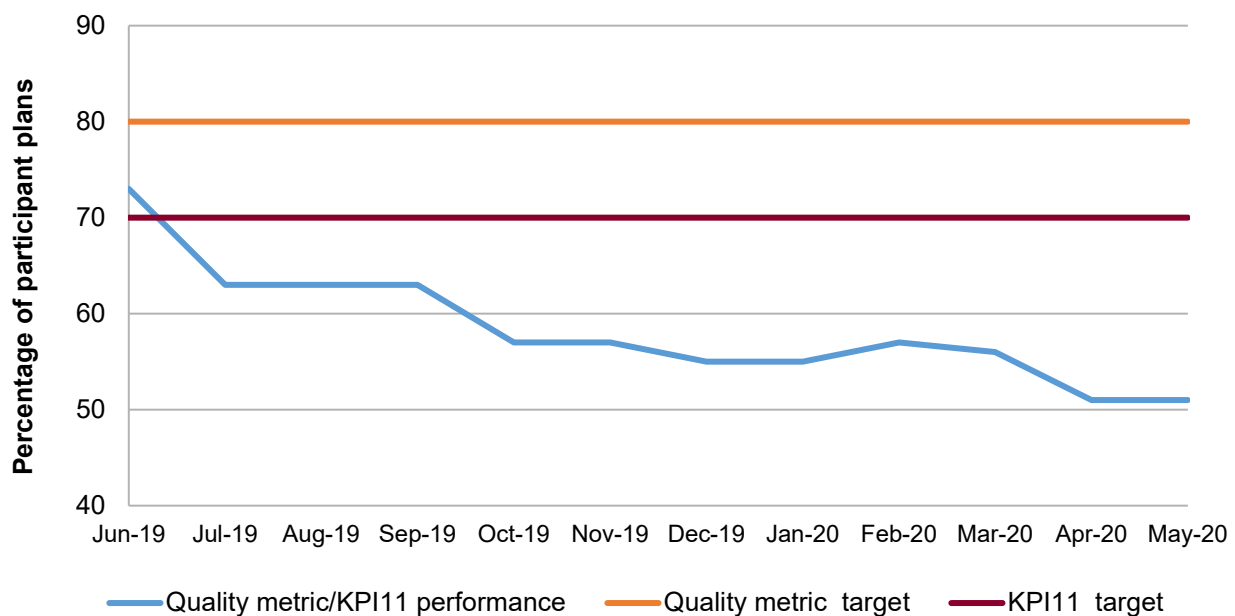
3.92 The result for KPI11 is determined by the results of bi-monthly end-to-end audits and is calculated using the average of the following two data points from the these audits:

- BD01: Have justifications been recorded specific to a participant's individual circumstances?
- BD04: Have justifications been recorded that demonstrate why the support is considered reasonable and necessary?

3.93 In addition to KPI11, the NDIA has a quality metric, which is 'clear documentation of justifications for reasonable and necessary supports'. This metric is derived from these same two data points (BD01 and BD04), with a different target of 80 per cent.

3.94 Each month, the end-to-end audit data (along with data from other business areas in the agency) is compiled into performance metrics for Monthly Pulse Reports. Both KPI11 and the quality metric were presented in Monthly Pulse Reports as performance metrics linked to the aspiration of 'a quality experience and outcomes for participants' set out in the NDIA's Corporate Plan 2019–23. As shown in Figure 3.3, neither KPI11 nor the quality metric have been met for their respective targets since June 2019.

Figure 3.3: KPI11 and quality metric trends over time against targets



Source: ANAO analysis of NDIA documentation.

3.95 The NDIA advised that there are two versions of the Monthly Pulse Report — one version for the ELT and one version for the Board. Generally, the Board version does not contain the quality metric or the service delivery KPIs results (including KPI11).

3.96 The results for KPI11 and the quality metrics were reported to the ELT from July 2019 to January 2020. The Monthly Pulse reports ceased reporting on the SPF13 KPI metrics from February 2020. During this same period, the KPI11 results were reported to the Board on one occasion (the December 2019 results were presented at the January 2020 Board meeting). The NDIA advised that the Monthly Pulse reports ceased reporting on the SPF13 KPI metrics from February 2020 as service delivery KPI operational reports are instead available through an online reporting tool. The quality metric was still presented in Monthly Pulse Reports from February to May 2020, but was not included in the June 2020 Monthly Pulse Report.

3.97 In addition to reporting through the Monthly Pulse Reports, the quality metric had been reported separately to the ELT and the Risk Committee — a sub-committee of the Board — on a quarterly basis since August 2019. The Plan Approval Decisions Reports (see further discussion at paragraph 3.18) form part of the NDIA's broader Business Assurance Compliance Reporting Framework and reported the quality metric against a target of 70 per cent.

3.98 In line with the quality metric, KPI11 is a relevant indicator of process correctness but is not a complete indicator of performance. As discussed at paragraph 3.14, the end-to-end audit results do not test if the supports have been correctly funded under the Act. KPI11 therefore does not provide sufficient information to determine whether planners are making correct reasonable and necessary decisions compliant with legislation, and whether supports have been correctly funded.

3.99 The NDIA advised that, as part of broader organisational changes and findings from the AFSR, KPIs are currently being reviewed and will be progressively rolled out from August 2020. New KPIs will reflect Government and Board expectations following the introduction of the 'Participant Service Guarantee'. The planned KPIs relating to reasonable and necessary decision-making are:

- Percentage of plans with appropriate reasonable and necessary decision in justifications, including referencing previous plan utilisation (replaces KPI11).
- Ninety-five per cent of first plans greater than 108 per cent above TSP are checked and endorsed by a more senior delegate (new KPI).

3.100 Aligning the targets for the metrics would allow the NDIA to have a more consistent view of the performance for reasonable and necessary decision-making and would allow service delivery areas to have more clarity in working towards achieving a single target. While setting the target at 70 per cent may be achievable as a short-term target, there would be merit in the NDIA reconsidering the target as there is a legislative requirement for funded supports to be reasonable and necessary, and reasonable and necessary decision-making is important to the NDIA and participants.

Recommendation no.3

3.101 The National Disability Insurance Agency align service delivery KPI and quality metric targets for reasonable and necessary decision-making; and review the target on a regular basis with a view to increasing the target to drive greater quality standards in reasonable and necessary decision-making.

National Disability Insurance Agency response: *Agreed and Completed.*

3.102 *The NDIA has revised its service delivery key performance indicators (KPIs). The revised set of ten KPI's have been created to monitor performance and drive improvement towards meeting the service commitments set out in the Participant Service Charter and the 22 Participant Service Guarantee response timeframes. The revision also ensured the KPIs' alignment with NDIA Corporate Plan 2020-2024.*

3.103 *The revised KPI's have set a baseline target for reasonable and necessary decision-making. Additionally, metric targets for 'better' and 'best' have also been established to drive greater quality standards and will be reviewed at least annually.*

3.104 *The revised KPI target for reasonable and necessary decision-making will be used to realign targets for quality metrics and business assurance testing reported to NDIA's executive leadership team and board, including committees.*

3.105 The Monthly Pulse Report is a key source of performance information presented to the Board and does not include regular reporting on KPI11. While performance against internal KPIs relating to reasonable and necessary decisions are not reported to the Board, reasonable and necessary decision-making, as it pertains to policy and the legislation, has been a key theme in papers presented by senior leadership, to the NDIA Board.

External performance reporting

3.106 The NDIA outlines its performance framework in the 2020–24 Corporate Plan. At an enterprise level, the performance framework consists of three primary documents: the Portfolio Budget Statement; Corporate Plan; and Annual Report, which includes the Annual Performance Statement and summarised AFSR in line with the *Public Governance, Performance and Accountability Act 2013* and the Commonwealth performance framework .

3.107 Under the NDIS Act, the Agency is also mandated to produce the AFSR and Quarterly Report to the former COAG Disability Reform Council. As per the requirements of the NDIS Act, the publically available quarterly reports to the COAG Disability Reform Council primarily focus on jurisdictional demographics including participant numbers and funding or provision of supports. Quarterly reports are not required to report directly on reasonable and necessary decision-making.

Annual report and annual performance statements

3.108 The NDIA's Corporate Goals, set out in the 2019–23 Corporate Plan included participant experience with performance metrics focused on participant engagement with the Scheme and financial sustainability, as it relates to expenditure in line with all three programs in the Portfolio Budget Statements. KPI11 was not used as a performance measure within the Annual Report or the Annual Performance Statement.

3.109 The 2018–19 Annual Report includes a summary of the AFSR and the NDIA management response to the AFSR, which notes that inconsistent decision-making for access and plan budgets, and testing of the boundaries of what constitutes a reasonable and necessary support, are current sustainability pressures.

Annual Financial Sustainability Report

3.110 The AFSR is required under section 180B of the NDIS Act and provides an overall assessment of the Scheme's financial sustainability and identifies main themes and emerging risks that may impact sustainability.

3.111 As well as estimating future costs, the AFSR uses data to determine sustainability pressures as they relate to plan value and utilisation, providing recommendations where management responses are required.

3.112 The AFSR also takes into consideration participants' economic and social participation through a longitudinal survey to understand whether reasonable and necessary supports are resulting in better outcomes. This data is used to identify and monitor trends and identify potential issues in reasonable and necessary decision-making.

3.113 The 2018–19 AFSR noted that there has been inconsistency in the formulation of participant plan budgets, with examples of staff not understanding the financial sustainability consequences of some decisions. Likewise, the 2017–18 AFSR noted the same issue requiring management response.

3.114 The NDIA management response to the 2018–19 AFSR suggests there are issues in planner capability and capacity, including technical understanding of reasonable and necessary, use of TSPs, as well as lack of confidence in defining and defending reasonable and necessary supports when facing external pressure. The NDIA is implementing several management solutions in response to this issue, including:

- Increasing the prominence of the reasonable and necessary module in the New Starter Program.
- Planner Coaching Dashboards, which are designed to help planners and managers understand the impact their planning decisions are having on sustainability and identify areas to improve the appropriate matching of reasonable and necessary supports.
- Joint planning meetings that involve a participant (including nominated family members, carers or other supports) and a Local Area Coordinator with an NDIA planner, which are

designed to ensure closer matching of reasonable and necessary supports to a participant's needs.



Grant Hehir
Auditor-General

Canberra ACT
29 October 2020

Appendices

Appendix 1 Entity response



GPO Box 73
SYDNEY NSW 2001
02 8232 8508
ndis.gov.au

Mr Grant Hehir
Auditor-General
Australian National Audit Office

Via email: OfficeoftheAuditorGeneralPerformanceAudit@anao.gov.au

Dear Mr Hehir

ANAO Audit Report on Decision-Making Controls for NDIS Participant Plans

Thank you for your correspondence of 8 September 2020, containing the Section 19 Proposed Report for the Australian National Audit Office (ANAO) performance audit *Decision-making controls for NDIS participant plans*. The National Disability Insurance Agency (NDIA) appreciates the opportunity to review and comment on the proposed report.

The NDIA welcomes the review of the decision-making controls that are in place for NDIS participant plans and recognises the value of the ANAO providing independent analysis and insights into the controls over the decisions made in developing appropriate plans for our participants.

The NDIA acknowledges the findings of the report and supports the recommendations and the opportunities they provide for further improvements in providing suitable supports for our participants.

The NDIA is committed to ensuring reasonable and necessary decisions are made when approving participants' plans to ensure the ongoing financial sustainability of the scheme. The NDIA has already commenced actions to address the recommendations raised in the report and in some cases they have already been finalised.

The NDIA appreciates the constructive engagement of the ANAO Audit Team throughout the conduct of this performance audit and remains committed to assisting you with the successful finalisation of this audit. We look forward to the upcoming tabling of the Final Report.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Helen M. Nugent', with a long horizontal flourish extending to the right.

Dr Helen M. Nugent AO
Chairman
National Disability Insurance Agency

Attachment 1: Summary Response
Attachment 2: Response to Recommendations
Attachment 3: Editorial Matters

2 October 2020

Delivered by the
National Disability
Insurance Agency