

## Issues Paper: Transport and the NDIS

Adequate access to transport is essential for NDIS participants to engage in social and economic life.

Transport assistance in the NDIS is complex and there are issues that require urgent resolution. Complexity arises from the interaction of factors: the levels of individual transport payments; participant choice; the future of taxi subsidy schemes; the financial viability of provider-owned vehicle fleets; and the coordination of community transport.

Adding to the complexity is the division of transport responsibilities across governments. The COAG Applied Principles<sup>1</sup> define the responsibilities of the NDIS and 'other parties', notably states and territories. The Principles indicate that 'other parties' are responsible to ensure that: public transport is accessible; concessions are applied to facilitate use of public transport; public transport and taxis are appropriately modified; and community transport services are available

Failure to resolve NDIS transport issues would have a range of adverse consequences:

- Reduced opportunities for NDIS participants to participate in employment and social activities. The risk of social isolation is greater in thin markets and in rural and remote areas.
- Disability service providers disposing of their transport fleets, without alternative transport options being available.
- An increasing proportion of participants' funding spent on taxis rather than on direct supports

### Transport funding under the NDIS

A participant is generally able to access NDIS funding for transport assistance if they cannot use public transport because of their disability. There are three levels of transport assistance (two of which reflect the Commonwealth Mobility Allowance)<sup>2</sup>:

- **Level 1** - Up to **\$1,606** per year for participants who are not working, studying or attending day programs but are seeking community access
- **Level 2** - Up to **\$2,472** per year for participants who are currently working or studying part-time (up to 15 hours a week) or participating in day programs or other social, recreational or leisure activities.
- **Level 3** - Up to **\$3,456** per year for participants who are currently working, looking for work or studying for 15 hours a week or more

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<https://static1.squarespace.com/static/57c65af5cd0f68b1295663dc/t/586092084402439b0c8370ab/1482723859121/NDIS---Principles+to+Determine+Responsibilities+NDIS+and+Other+Service+Systems+-+Revised+27+Nov+2015+%281%29.pdf>

<sup>2</sup> NDIS Participant Transport funding information, <https://www.ndis.gov.au/document/participant-transport-funding-informati>

Participants can receive higher funding to enable their participation in employment, but only in exceptional circumstances.<sup>3</sup> How this is applied in practice is unclear.

For many NDIS participants, the funding levels are insufficient. Level 1 for people who have no income from employment averages just \$4.40 a day. Many NDIS participants who can't use public transport are recipients of the Disability Support Pension and do not have the financial capacity to cover transport costs.

Transport assistance funding should cover the cost of operating a vehicle and the cost of labour<sup>4</sup> - just as a taxi fare comprises the cost of the driver's time and the cost of running the taxi.

Funding allocations should also reflect the higher transport costs in some regions of Australia, especially where distances are large and there are few or no local support providers. Transport assistance funding in these parts of Australia does not yet reflect the full impact of local conditions.

### **Participant Budgets**

NDIS participant budgets are divided into three support categories: Core, Capital and Capacity building. Core supports are flexible across four sub-categories:

1. Assistance with daily living, except where a budget is allocated to Supported Independent Living (SIL);
2. Transport;
3. Consumables; and
4. Assistance with Social and Community Participation.

If participants require transport assistance above their specific budget allocation, they can draw funding from other Core support categories.<sup>5</sup> This flexibility is good, although it risks reducing the budget available for other Core supports.

Moreover, system limitations deny flexibility to some participants. If a participant receives all their transport funding as a periodic payment into their bank account, they cannot add to their transport assistance from their Core supports budget. This occurs because they don't have a budget allocation on the Portal for transport assistance. These participants should have the same flexibility as other NDIS participants. Information about NDIS policy on this can be confusing<sup>6</sup>.

### **Taxis**

The individualised nature of funding and support in the NDIS will increase the demand for taxis. Several other factors are also likely to increase the expenditure on taxis under the NDIS:

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<sup>3</sup> *ibid*

<sup>4</sup> [NDIS 207-18 Price Guide](https://www.ndis.gov.au/providers/pricing-and-payment.html), <https://www.ndis.gov.au/providers/pricing-and-payment.html>, page 17

<sup>5</sup> [Choice and Control Factsheet](https://ndis.gov.au/medias/documents/hce/h5b/8799507939358/Factsheet-Choice-and-Control-A4-v0.5.pdf), <https://ndis.gov.au/medias/documents/hce/h5b/8799507939358/Factsheet-Choice-and-Control-A4-v0.5.pdf>, page 1

<sup>6</sup> Particularly the Choice and Control factsheet - <https://ndis.gov.au/medias/documents/hce/h5b/8799507939358/Factsheet-Choice-and-Control-A4-v0.5.pdf>

- **The uncertain future of taxi subsidy schemes**

Taxi subsidy schemes are provided by state and territory governments. They vary across the country in terms of eligibility criteria, maximum subsidy per trip, subsidy annual cap and the additional payment for wheelchair accessible taxis (WAT). For example:

	<b>Subsidy</b>	<b>Wheelchair accessible taxis (WAT) additional payment</b>
<b>NSW<sup>7</sup></b>	50% subsidy, up to \$60 per trip	\$15 (ex GST) per ride
<b>VIC<sup>8</sup></b>	50% subsidy up to \$60 per trip. Some members have a yearly limit.	\$15 lifting fee (only for people with a M31 card)
<b>QLD<sup>9</sup></b>	50% subsidy up to \$25 per fare	\$10 service call

The future of these schemes for NDIS participants is uncertain. Several state governments are adamant that their funding for taxi subsidies has been transferred to the NDIS. Some (Queensland, Victoria, NSW and Tasmania) have made commitments to continue taxi subsidies until the end of June 2019, but not beyond that date. Given the relative poverty of many NDIS participants, the potential loss of the taxi subsidy schemes is a significant concern.

The NSW Government established a Point to Point (P2P) Transport Commission in 2017 as the new regulator of taxis, hire vehicles and rideshare services. A review<sup>10</sup> is examining extending the taxi subsidy to vehicles other than taxis (e.g. commercial providers such as Uber and Community Transport). These reforms have the potential to increase user choice and the number of accessible vehicles available to people with disability.

People with disability in regional and rural areas, in particular, cannot rely on taxis or ridesharing alone, especially as fewer WATS operate in these areas and efforts to increase supply have been largely unsuccessful.<sup>11</sup>

- **The NDIA should fund the full cost when taxi use is deemed reasonable and necessary**

In July 2016, the Administrative Appeals Tribunal (AATA) affirmed the decision of the NDIA to only partially fund the weekday transport costs of young man, Liam

<sup>7</sup> <https://www.transport.nsw.gov.au/projects/programs/point-to-point-transport/transport-disability-incentives-and-subsidies>

<sup>8</sup> <http://taxi.vic.gov.au/passengers/mptp>

<sup>9</sup> <https://www.qld.gov.au/disability/out-and-about/taxi-subsidy>

<sup>10</sup> <https://www.transport.nsw.gov.au/projects/programs/point-to-point-transport/transport-disability-incentives-and-subsidies>

<sup>11</sup> Transport for NSW, Transport Disability Incentives and Subsidies Review Discussion Paper, September 2017

McGarrigle, living in a regional Victorian town with no public transport. The AATA was satisfied that the funding of approximately 75 per cent of the annual transport cost, for Mr McGarrigle to attend work and a social group, struck an appropriate balance between what is reasonable and necessary and the overall financial sustainability of the scheme.<sup>12</sup>

Mr McGarrigle appealed that decision and in March 2017, the Federal Court found in favour of the applicant, with Mortimer J ordering that the matter be remitted back to the AATA for re-consideration. Significantly, Mortimer J opined that once a matter was determined to be reasonable and necessary, it should be fully funded.<sup>13</sup>

The opinion of Mortimer J, that the NDIA should fully fund supports found to be reasonable and necessary, means that NDIS participants living in rural areas and unable to drive or use public transport should be funded for the full cost of their transport. The NDIA says this has the potential to affect up to 34,000 NDIS participants and will increase cost pressures on the scheme.

- **Fleets operated by disability service providers are at risk**

Block funding of disability service providers allowed for cross-subsidies that helped maintain transport services. With the transition to NDIS individualised funding, service providers find it financially difficult to maintain vehicles. Some are reducing their provision of transport and considering disposing of their transport fleets because of financial loss.<sup>14</sup> Once these transport fleets are gone, they will not be re-established and adequate cost-effective alternatives are not yet available.

The relatively low utilisation rate of fleets contributes to their viability risk. Often vehicles are only used at peak times during the day and do not include multiple passengers. The utilisation rate of vehicles could potentially be increased by combining commercial expertise in fleet management with the voluntary pooling of vehicles among disability service providers in a location.

In a South Australian pilot, a specialist web-based transport booking platform (<https://carlride.com>) is being trialled to enable the sharing and booking of accessible vehicles. It connects users with fleets, aiming to increase fleet companies' vehicle utilisation, whilst providing people with disability with improved access to transport options.

### **Community transport**

Community transport is an important part of the transport ecosystem. While some community transport providers are registering as NDIS providers many believe that the transport funding received by participants is inadequate, particularly in regional and rural areas where a round trip could be more than a hundred kilometres.

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<sup>12</sup> *McGarrigle v National Disability Insurance Agency* [2016] AATA 498 (15 July 2016)

<sup>13</sup> *McGarrigle v National Disability Insurance Agency* [2017] FCA 308 at [95] (28 March 2017)

<sup>14</sup> NDS's State of the Disability Sector Report 2017 shows 19% of providers plan to reduce or cease their provision of travel assistance in the next 12 months, p.12

In Victoria, community transport for people with disability was included in the Home and Community Care Program for Young People (HACC-PYP). This funding allowed community transport providers to offer transport assistance at a highly subsidised rate. It is still available for people with disability who are under 65 years who are not NDIS participants (but its future is unclear).

In NSW, community transport previously funded by ADHC via Transport for NSW for people under 65 with disability is being withdrawn from services transitioning to the NDIS. The amount of transport assistance that Community Transport providers deliver to people under 65 years with a disability varies considerably: in regional NSW up to 50% of Community Transport trips are for people with disability.

### **Draft Recommendations**

1. Give all NDIS participants flexibility in their Core supports budget to trade off supports among the four support categories, which include transport.
2. Review the method of calculating transport assistance, ensuring that it takes into account reasonable and necessary transport use, the effect of location and both worker time and the cost of running a vehicle
3. Continue NDIS participants' eligibility for state government taxi subsidy schemes
4. Increase efforts by state and territory governments to make public transport more accessible
5. Extend the passenger subsidy and WAT Driver Incentive Payment, commonly known as a 'lift fee', to disability service providers with wheelchair accessible vehicles. Varying lift fees for certain times of the day and locations should be considered
6. Test innovative and efficient fleet management models involving disability service providers and community transport providers
7. Allow NDIS participants to use transport funding to negotiate informal travel arrangements: for example, pay for a neighbour's fuel if the neighbour is willing to give the participant a lift to their place of employment or community activity
8. Fund disability service providers to continue to provide specialist transport where other viable options are unavailable

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