

Governance of the NDIS: The missing link?

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- The NDIS may benefit from a blueprint that documents and describes the formal NDIS policy agreed to by Australian governments.
- As the strategic plan of the NDIS is positioned as an agency plan, it is difficult for the government to identify, monitor and report on those NDIS initiatives being delivered by other government agencies
- The sample blueprint in this article would logically be positioned at the tactical level to provide structure and co-ordination of the Scheme.

There is little doubt there is a comprehensive governance framework supporting the National Disability Insurance Scheme (NDIS or 'the Scheme').

But there is also little wonder that people with disabilities may have 'grave concerns about the NDIS rollout', as reported in the Sydney Morning Herald in December 2015.

One crucial component of the framework may be missing.

It appears there is no 'blueprint' driving the NDIS itself. The term 'blueprint' used in this article means the policy document that is required to tactically drive the Scheme.

It may be that such a blueprint exists, but unfortunately it isn't accessible to the public, which means that the policy environment for the NDIS cannot easily be understood.

This means it is difficult to identify the components that make up the Scheme, how each component is supposed to operate, and how each component is linked and aligned. This is as much an issue for government policy makers, as it is for participants and other stakeholders.

Exposing the gap

There are volumes of information about the NDIS which are available to the public in various forms and at various sites. However, this article primarily analyses and discusses the key policy

documents that relate to the Scheme which were identified in the *Joint Standing Committee on the National Disability Insurance Scheme Report 2014*, and those that can be found on the NDIS website.

This analysis shows that there appears to be a missing link in the overarching system that makes up the NDIS in the form of a missing blueprint that should document and describe the formal NDIS policy agreed to by Australian governments.

The best place to start is with the *Joint Standing Committee Report*, which is not a policy document per se, but rather a report on the implementation of the NDIS. This document contains a detailed diagram which shows there are different layers of governance and policy (committees and documents) that make up the high level 'system' considered to be the National Disability Insurance Scheme — see Figure 1.

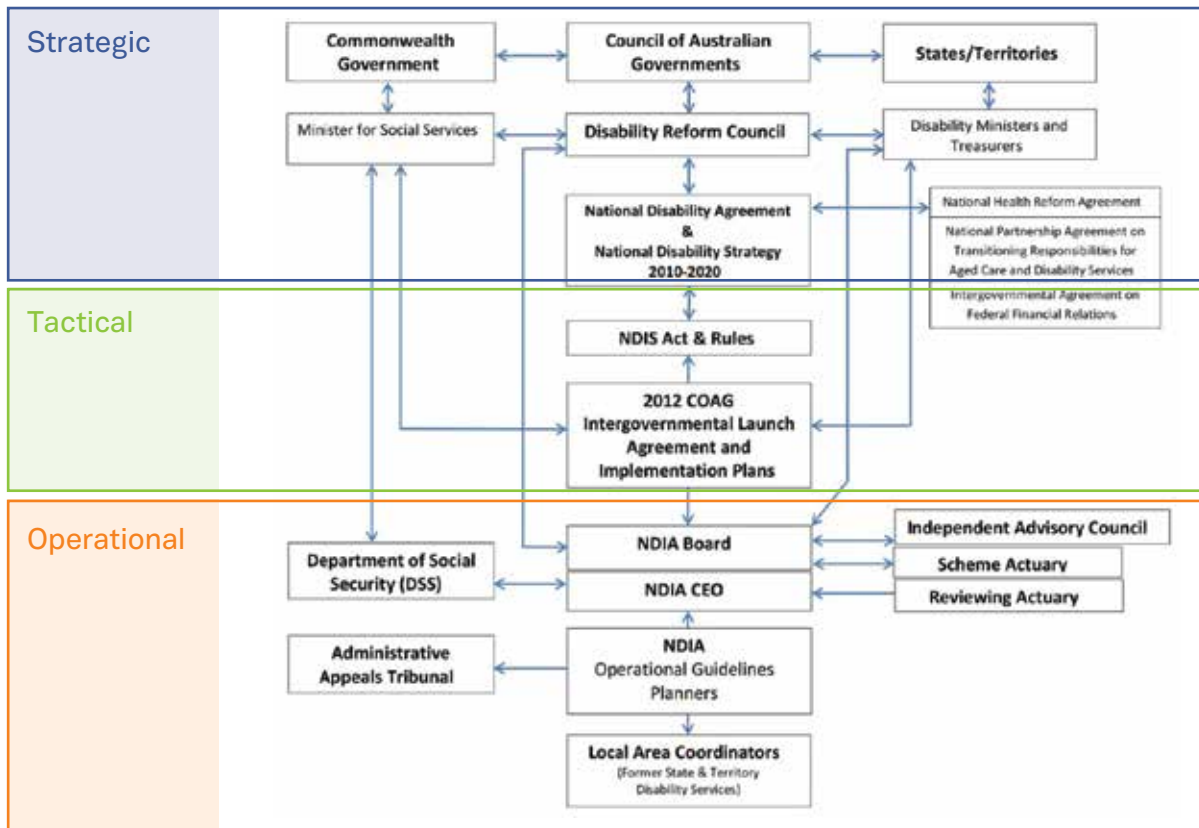
Strategic policy

According to Figure 1, the strategic policy components of the NDIS system include:

- the *National Disability Agreement* between the Commonwealth and the States
- the *National Disability Strategy 2010–2020*.

The *National Disability Agreement* is a high level agreement between the commonwealth and the states, on federal financial relations. However it is not, nor is it intended to be, a blueprint that documents and describes the

Figure 1: National Disability Insurance Scheme System Diagram



Source: Adapted from Joint Standing Committee on the National Disability Insurance Scheme Report 2014.

components of the NDIS, or one that shows how these components are linked and aligned. In fact, there are only two references to the NDIS as a Scheme in the seven page agreement.

The *National Disability Strategy 2010–2020* clearly states the outcomes being sought for people with disabilities in Australia over a ten year period. However it does not, nor is it supposed to, describe the components of a Scheme that provides economic security for people with disabilities. To illustrate this, there is only one specific reference to a national long-term care and support scheme under ‘areas for future action’ in this document, even though it is acknowledged that the objectives of this strategy are the foundation for the outcomes of an NDIS.

Tactical policy

In the context of Figure 1, the next layer of policy documentation is tactical, and this should provide for the structure

and co-ordination of the Scheme. The *tactical policy* documents shown in this diagram on page 9 of the report are:

- National Disability Insurance Scheme Act and Rules (that is, NDIS legislation)
- COAG Intergovernmental Launch Agreement 2012.

While legislation can provide a structure for the NDIS, it does not contain the level of detail required to understand each component of the Scheme. That is, legislation is not the most appropriate policy instrument to tactically drive the Scheme, as it does not contain enough information for decision makers to make the types of determinations required to steer, operate and oversight the NDIS system.

This is because legislation is not, and cannot be, tactical policy in its entirety. Even principles-based legislation, which contains an overarching framework for a system:

- cannot provide the context for a system
- cannot effectively show the connections between the core components of a system
- cannot demonstrate how a system operates in a practical sense
- cannot contain a map of how these components fit together
- isn’t ‘nimble’ enough to allow the Scheme to be modified in response to feedback and innovation, as the Scheme is rolled out.

And of course, legislation does not include those aspects of policy that do not need to be legislated.

The COAG Intergovernmental Launch Agreement makes it clear that the NDIS legislation does not describe the entirety of the NDIS policy environment. It is true that the Launch Agreement states that ‘the objects for the first stage of the NDIS are set out in the National Disability Insurance Scheme Bill 2012, as enacted into

legislation'. However, it is also true that page 3 of the Launch Agreement indicates there is a lot more to the policy environment of the NDIS than legislation alone. It outlines that the first stage of the NDIS should also include a range of other considerations such as client experience, further testing of individualised funding, and promoting an effective market for disability services.

Therefore, there appears to be a gap in the form of a tactical policy document that pulls together *all* policy relating to the NDIS, into a 'blueprint' which is greater than legislation alone.

Operational policy

The definition of 'operational' policy depends on the boundaries of the system being described.

In the context of the high level view of the NDIS system illustrated in Figure 1, the operational components of the system include the National Disability Insurance Agency (NDIA) Board, NDIA CEO, and Operational Guidelines.

In practice, the NDIS Website shows that the key operational policy documents are:

- the National Disability Insurance Agency (NDIA) Strategic Plan
- the NDIA Corporate Plan
- a range of NDIA Operational Guidelines.

However, it should be acknowledged that a smaller (or more focused) view of the system may consider the NDIA Strategic Plan to be a 'strategic' component of the system.

It is interesting to note that the Strategic Plan is referred to as the National Disability Insurance Agency Strategic Plan, and not referred to as the National Disability Insurance Scheme Strategic Plan.

The NDIS is a piece of public policy that requires a public policy document to drive the direction of the Scheme. By positioning the NDIA Strategic Plan as a plan of the agency and not a piece of public policy, it is more difficult to effectively implement, coordinate, and report on the Scheme from a whole-of-government perspective. Other

agencies involved in the NDIS include Department of Prime Minister and Cabinet; Treasury; Department of Social Services; Department of Health and Department of Education and Training.

In addition, by positioning the Strategic Plan as an agency document, it is also more difficult to identify, monitor and report on the connection between the NDIS and other related pieces of public policy including:

- National Injury Insurance Scheme
- My Aged Care.

Without a whole-of- government approach it may be difficult for governments and the public to be confident that the overall performance of the public sector is productive, efficient and effective.

Regardless of the above comments, the pieces of operational policy on the NDIS website cannot be considered to be blueprints that describe the framework, content, or components of a National Disability Insurance Scheme.

Almost a blueprint

It could be said that the Productivity Commission Report on the NDIS 2011 is 'almost' a blueprint for the NDIS, except that it is clearly a discussion paper.

The Productivity Commission Report is a detailed discussion paper (sometimes called a green paper) that contains recommendations on NDIS policy, but it is not agreed government policy (sometimes called a white paper). It is also too detailed to be a useful tactical policy document in the context of the scheme illustrated in the Joint Standing Committee Report.

In addition, it is clear that a number of recommendations from the report have *not* been adopted. For example recommendation 9.14 of the Productivity Commission Report recommends the creation of the role of Inspector General of the NDIS as an Independent Body within the NDIA, however a review of the NDIS Act, Rules, and other policy documentation indicates that this recommendation has not been adopted.

The Report also refers to the role of 'disability support organisations', and

explains the role these organisations would undertake. However, the NDIS Act appears to rename this role 'Registered Plan Management Provider', and no agreed policy position outlining the role of a Registered Plan Management Provider could be found.

The missing blueprint

If it existed, a blueprint of the NDIS could be a key document off which many other policies, processes, systems and structures could hang.

If such a blueprint did exist, it may contain a map or figure that looks something like the sample blueprint illustrated in Figure 2. This figure shows the inputs, processes, outputs and outcomes of a National Disability Insurance Scheme, along with the three core processes that make up the system:

1. plan development
2. funds management
3. support provision.

If developed, this sample blueprint would sit most comfortably between the Launch Agreement and the legislation, in the following order:

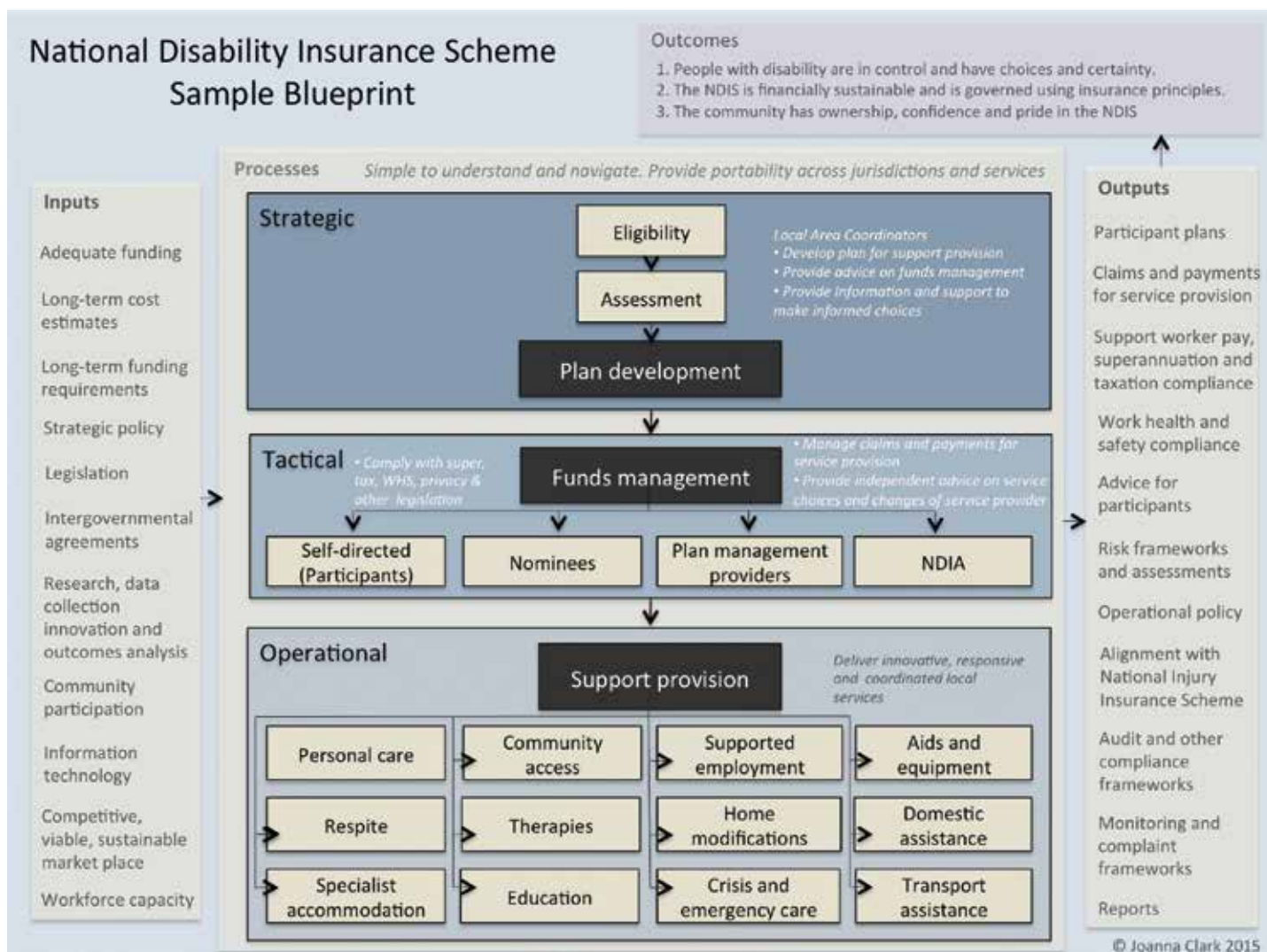
- COAG Intergovernmental Launch Agreement
- **National Disability Insurance Scheme Blueprint**
- National Disability Insurance Scheme Act and Rules (legislation).

The reason for placing a *blueprint* between the Launch Agreement and the NDIS legislation is obvious when you look at the structure and content of the NDIS Act and Rules. It appears as though the legislation may have been based on a framework similar to Figure 2, even though no formal document could be located that contains a map, framework, or policy detail like that in Figure 2.

A blueprint for the NDIS is also an essential piece of policy that should drive the development or identification of:

- strategic, tactical and operational risks relating to the Scheme
- operational policy, guidelines and processes

Figure 2: National Disability Insurance Scheme Sample Blueprint



- information for participants about how the Scheme practically operates
- a compliance framework for the NDIS
- a reporting framework for the NDIS across all of government.

By using this type of blueprint, the Scheme could greatly reduce gaps and duplication. This could subsequently reduce risk, create significant cost savings, and alleviate confusion on the ground being experienced by participants, funds managers, providers of supports, and other stakeholders alike.

Benefits of a blueprint

A blueprint that clearly explains the functioning of the NDIS would make it easier to design a website to reflect the key components of the Scheme,

and to subsequently communicate most effectively with participants and other stakeholders.

The NDIS website does not currently contain a simple overview or map of the Scheme, or an overview of the processes that a participant or provider has to navigate, therefore a blueprint such as the one shown in Figure 2 could fill this gap.

The sample blueprint illustrated in Figure 2 is also one way to map, describe and link all of the components of the Scheme. This then allows for a whole range of tools to be created for a whole range of stakeholders. For example, once a blueprint has been created, a short list of steps can be constructed that gives participants a concise overview of the process on

which they are about to embark. See Figure 3.

Plugging the gaps

It may be that the lack of a blueprint type document may have unintentionally changed the nature and intent of some of the processes of the NDIS originally described in the Productivity Commission Report and other documentation. This may subsequently affect the ability of government to achieve the outcomes described in policy documents at all levels of the Scheme.

One example of this can be illustrated by the almost complete omission of the role of the *registered plan management provider* on the NDIS website. This role was originally referred to as a *disability*

support organisation in the Productivity Commission Report.

A disability support organisation had many roles described in the Productivity Commission Report, but the most important role was to support people with disabilities and their families 'so the complex business of the NDIS' (is) invisible to them'.

And it should be highlighted that the business of governing an NDIS Plan can be complex. While the NDIS provides the participant with greater choice and control, there are many responsibilities associated with purchasing and managing the provision of supports (services) in a participant's NDIS Plan, for example, payroll; superannuation; taxation; employment; insurances; invoicing and compliance.

More specifically if self managing funds, participants in the NDIS may need to consider how to establish systems and processes to:

- claim payments from the NDIS and subsequently pay providers of supports
- recruit, appoint, roster, manage and terminate staff
- ethically identify whether family and friends can be paid for support work
- undertake criminal history checking of support workers
- comply with employment, work health and safety, privacy, records management and other legislation
- identify, purchase and use aids and equipment
- identify and purchase transport services.

It should be stated that a *provider of supports* could assist a participant to undertake some of the roles listed above. But there are many conflicts of interests that would exist if the same provider delivered many different supports.

In this case, the role of *registered plan management provider* helps to reduce conflicts of interest by assisting participants to exercise control and make informed choices, when *providers of supports* may have a vested interest in the broader range of supports being delivered.

Figure 3: Steps for participants in the NDIS process

Step 1	Am I eligible for the Scheme?
Step 2	What does an assessment with a Local Area Co-ordinator involve?
Step 3	What will my NDIS Plan look like and include, for example: <div><div>i. personal care</div><div>ii. respite or day programs</div><div>iii. specialist accommodation</div><div>iv. community access</div><div>v. therapies</div><div>vi. guide and therapy dogs</div><div>vii. supported employment</div><div>viii. home modifications</div><div>ix. crisis and emergency care</div><div>x. aids and equipment</div><div>xi. domestic assistance</div><div>xii. transport assistance</div></div>
Step 4	Who can I select to manage my funds? There are four choices: <div><div>i. self directed funds management</div><div>ii. funds management by a nominee selected by the participant</div><div>iii. funds management by a Registered Plan Management Provider</div><div>iv. funds management by the NDIA</div></div>
Step 5	Who will provide the supports (deliver the services) in my Plan?
If a participant chooses to self manage their NDIS Plan then:	
Step 6	How do I set up the necessary systems to claim funding, pay support workers, and comply with tax, superannuation, work health and safety, privacy and other government legislation and policy.

However, the role of a registered plan management provider is almost completely absent from the NDIS website. When it is referred to, a registered plan management provider has been inappropriately grouped with registered providers of supports on the NDIS website, even though these two different types of providers live at different levels of the Scheme, have different objectives, and manage different public policy risks.

The role of a registered plan management provider would live most comfortably in a page on the NDIS website that explains the four choices participants have in managing their funds. At the moment no such page appears to exist, which means it is difficult for participants to understand these choices.

Without clear roles at each level being identified, documented and described, there is a greater chance that the Scheme will not achieve its objectives and unidentified risks will ultimately materialise.

On the road to somewhere

The National Disability Insurance Scheme needs a blueprint to guide its direction and reduce inconsistencies and confusion with the Scheme. It needs a blueprint to ensure that the Scheme is well planned and decisions are not made on the run.

A detailed blueprint document should live at the tactical level of the Scheme, should describe the policy features of the NDIS that have been agreed to by Australian governments, and it should map, describe and link components in a manner that is similar to those illustrated in Figure 2.

If there isn't a clear blueprint to steer the direction of the National Disability Insurance Scheme, the 'grave concerns about (the) NDIS rollout' may continue, and it may be the government that ends up getting lost. ■

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