Specialist Disability Accommodation

Provider and Investor Brief

April 2018

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Introduction

The National Disability Insurance Agency (NDIA) seeks to continually engage participants, providers and investors on matters relating to the Specialist Disability Accommodation (SDA) market. In its role as market steward, the NDIA is committed to providing clarity to support development of the SDA sector.

Through various forums, including one-on-one consultations, the NDIA has received feedback from stakeholders on three major areas:

1. Price regulation, including the upcoming Disability Reform Council (DRC) Pricing & Payments Framework Review and the NDIA's Benchmark Pricing Review;
2. Operational processes, particularly SDA planning and dwelling enrolment processes; and
3. Information, including on key policy, operational detail, and market supply and demand data.

The NDIA is committed to addressing these areas and is undertaking the following actions in response:

1. Working with the Department of Social Services (DSS) to inform the DRC Pricing & Payments Framework Review including the terms of reference and timing of the review;
2. Working to improve key SDA operational processes, including efficient SDA planning and timely processing of dwelling enrolments; and
3. Improving the clarity of information related to SDA, including on key policy and operational matters, and seeking to provide reliable data on SDA demand and supply as it becomes available.

This document is intended to be the first in a series of planned communications on SDA. As a first step, this document focuses on information related to:

- Funding principles including price reviews;
- Eligibility and funding levels;
- Some innovations made possible by SDA funding; and
- Dwelling standards and enrolment including work underway to develop third party certification standards to improve confidence with compliance.

Topics planned for future communications include:

- The Pricing & Payments Framework Review Terms of Reference (to be made available by DSS);
- Information for participants, including examples of housing innovation made possible by the NDIS;
- Information for providers, including expectations of future demand; and
- Participant planning processes including guidance to assist external assessors, e.g. occupational therapists.

In addition to market information that may be provided by the NDIA, providers and investors should conduct their own market research to inform their investment decisions. For example, through independent research, or partnering with disability support organisations and other experts.

Contents

1. Introduction to Specialist Disability Accommodation

What is Specialist Disability Accommodation (SDA) funding?

SDA refers to a new form of capital funding for NDIS participants. SDA funding is intended for participants who require a specialist dwelling that reduces their need for person-to-person supports, or improves the efficiency of the delivery of person-to-person supports. SDA funding will only be provided for participants who meet the eligibility criteria. Participants who meet the eligibility criteria will have an extreme functional impairment and/or very high support needs.

SDA funding can only be paid to a provider that is registered with the NDIA and has an enrolled and compliant dwelling. This remains the case even where a participant has engaged a registered plan manager, or is self-managing their NDIS plan. SDA is funded under the NDIS through individual participant plans. Under the NDIS, eligible participants receive funding in their plan that they can then use to approach the market to find an enrolled dwelling that meets their needs.

SDA funding is for capital only (i.e. bricks and mortar) and is not for person-to-person supports. A participant may receive additional funding for these and other supports under the NDIS.

With their SDA funding, eligible participants can make their own decisions to find and enter into agreements with a suitable NDIS registered provider. This is consistent with the emphasis on participant choice and control across the NDIS.

SDA funding will create a marketplace for SDA. NDIS funding for SDA represents a substantial injection of funds for the sector. At full scheme, SDA funding is expected to total approximately $700 million per year. Over time, the NDIA expects SDA funding to attract investment and stimulate the development of new required dwellings.

In 2011, the Productivity Commission estimated that around 28,000 people (or 6% of NDIS participants) will require SDA funding at full scheme. Prior to the launch of the NDIS, it was estimated that there was enough existing specialist accommodation for 15,700 people, implying the need for enough new dwellings to accommodate an additional 12,300 participants.[1]

The NDIA considers 6% to be the best current estimate of the number of participants who will be found eligible for SDA funding under the NDIS. However as an estimate, this may change over time as participants enter the Scheme and have their NDIS plans made.

SDA is delivered under the National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016. Other key governing documents for SDA include:

- SDA Pricing and Payments Framework
- SDA Price Guide
- SDA Operational Guideline
- Terms of Business for Registered Providers
- The NDIS Act.

Why is SDA funding different?

In addition to increasing overall funding, the NDIS changes the way SDA funding is provided. Instead of funding SDA through centrally managed capital grants programs that provide

[1] Productivity Commission Disability Care and Support Report Vol2 No. 54, 31 July 2011

block funding to providers, the NDIS provides SDA funding directly to participants after determining their eligibility and appropriate budget amount[2].

Eligible participants can make their own decisions to find and enter into agreements with a suitable registered NDIS provider. This is consistent with the emphasis on participant choice and control across the NDIS.

Moving to an individualised, participant led funding model has several benefits:

- SDA funding is spent based on participants' choices on where they would like to live, rather than government agency decisions on the merits of provider grants applications;
- Through participant choices, funding can flow to a wide range of providers of varying scales offering new and innovative solutions, rather than being limited to incumbent players who are familiar with grants processes or established models of accommodation and support; and
- Funding levels are consistent and smooth across years, as they are linked to participant needs, rather than being tied to "lumpy" grants rounds and decisions.

Participant purchasing power will drive greater competition, stimulate innovation and create incentives for providers to be more responsive to the needs and preferences of participants.

Over time SDA funding will increase the availability of accommodation and support models that provide for greater choice than what has historically been available under state and territory systems.

Is SDA funding here to stay?

Yes. SDA funding under the NDIS is a legislated commitment of Australia's Commonwealth, State and Territory governments, set out in the NDIS SDA Rules (2016) under the NDIS Act (2013). This legislation provides the foundation for government's long-term and firm commitment to SDA funding under the NDIS.

Beyond the legislative commitment, SDA funding enables eligible participants to achieve better outcomes while representing value for money for the NDIS. This is due to high-quality fit-for-purpose dwellings making it easier and less expensive to provide the range of person-to-person supports that SDA eligible participants require.

Improved design in SDA dwellings can reduce person-to-person support needs, and allow for choice in models that utilise shared supports.

Broad benefits to all parties including participants, providers and the NDIS underpin the long-term commitment to SDA funding.

What are SDA price limits?

A transparent and stable funding system is critical to stimulate new supply of high quality, fit-for-purpose and innovative dwellings, and for the funding approach to be commercially viable and attractive for investors.

Funding for each eligible participant is included in their NDIS plan, which will describe an amount of SDA funding along with a specific Design Category, Building Type/s and location/s (further detail is provided in section 2 *SDA eligibility and funding levels*).

[2] This is achieved by applying the reasonable and necessary test within the NDIS Act (s.34), and the eligibility criteria under the SDA Rules (s.3).

The methodology used to determine the appropriate amount of funding for a participant is described in the SDA Rules 2016. Funding amounts are calculated to correspond to the published price limits for dwellings, which the NDIA sets depending on the dwelling's type and location.

Price limits provide a ceiling up to which providers can negotiate with participants for the provision of SDA[3].

Consistent with its broader policy on price regulation, the NDIA will consider deregulation as the market grows and matures, relaxing existing controls as competition develops and participants become increasingly informed and empowered customers.

How will SDA price limits be reviewed?

There have been two key review points announced for SDA.

The first is a review of the SDA Pricing and Payment framework that will be undertaken in the third year of its operation (2018-19) by the Disability Reform Council. This review will focus on the broader policy surrounding SDA pricing and payments.

SDA Pricing and Payment Framework Review

The NDIA is working with DSS to inform the Pricing & Payments Framework Review, set to be completed during 2018.

The review is a key opportunity to work closely with participants and providers to ensure appropriate price regulations are in place for SDA. The review will be led by an Independent Expert Panel which will examine the current Framework to assess whether it:

- supports participant choice and control, innovation, market development and financial sustainability;
- reflects an efficient cost structure for providers;
- facilitates providers obtaining investment;
- has appropriate timeframes for price reviews; and
- needs to be updated to meet changes in quality and safeguard requirements.

The second is the review of the price limits developed by the NDIA. The SDA Pricing and Payments Framework states that price limits will be reviewed by the NDIA every five years, with price limit changes from the first review to apply to all dwellings from 2021.

NDIA Price Limit Reviews

The benchmark price review's scope is predicated on the above framework review. During its review of SDA price limits, the NDIA does not anticipate making wholesale changes to the methodology, rather the NDIA will use statistics from the Australian Bureau of Statistics, the Reserve Bank of Australia, Commonwealth Treasury and other bodies as appropriate to ensure returns and SDA payments remain aligned to the cost of capital in prevailing economic conditions. These reviews will ensure the inputs to the pricing model remain current, reflecting among other things:

- the cost of debt;

[3] The draft baseline assumptions underpinning SDA funding were made public on 1 April 2016 in the SDA Position Paper on Draft Pricing and Payments.

- the cost of equity, driven by the capital asset pricing model (CAPM), based on comparison with aged care and other health care investments; and
- typical debt to equity ratios.

For example, this process may be used to increase the location weightings provided to SDA in line with changes to property values since 2015-16. Any such change will be reflected in participant plans.

Reviews will work closely with SDA participants and providers to ensure appropriate and effective SDA arrangements are in place. This includes appreciation that from a provider point of view, returns on SDA investment are generally derived over a 20-year period and that any change to price limits will need to consider this impact.

The SDA review cycle is intended to strike the appropriate balance between providing investment surety and ensuring SDA price regulation arrangements are sufficiently flexible to accommodate new data.

2. SDA eligibility and funding levels

How are SDA eligibility and funding levels assessed?

The SDA Rules set out the eligibility criteria for SDA funding. These rules were agreed by the Commonwealth and state and territory governments.

SDA is only intended for a small number of NDIS participants. The NDIA expects that around 6% of participants will meet the requirements for SDA funding. Participants who meet the criteria will have a very high need for constant or immediately available supports, and/or have an extreme functional impairment in a core area (self-care, mobility or self-management). The key activity limitation will remain unchanged following the use of other interventions such as assistive technologies, home modifications or capacity building supports.

The level of SDA funding provided to each eligible participant is based on what is reasonable and necessary, as determined through the NDIS participant planning process. In addition to considering a participant's goals and preferences, assessments required by the NDIA to determine the appropriate SDA funding level may include: activities of daily living, functional capacity assessments, and/or a behaviour assessment.

Based on assessment of need, each eligible participant's plan will include SDA funding to match the level of support required to meet their needs. The NDIA uses the published SDA price limits to assist in determining the appropriate funding amount to include in a participant's plan.

Further information on the level of support, including building types and design categories, can be found in the SDA Price Guide.

Is there a cap on the total number of SDA participants?

No. There is no arbitrary cap on the number of SDA participants. All participants who meet the eligibility criteria will receive SDA funding. However, due to the specific eligibility requirements there are only likely to ever be a small percentage of NDIS participants who meet the criteria for SDA.

Currently, it is estimated that around 6% of participants will require SDA funding once the NDIS has reached full scheme, however this estimate does not represent a 'cap.'

Note: Density restrictions limit the number of residents within a single SDA dwelling, and the number of SDA participants on a single parcel of land. These are in place to prevent the development of large residential centres or sites which have been consistently demonstrated to provide poorer outcomes for people with disability including providing significant barriers to social and community inclusion. These restrictions are outlined in the [SDA Rules].

Is there a cap on the number of SDA dwellings that will be enrolled under the NDIS?

No. There is no cap on the number of SDA dwellings that will be enrolled under the NDIS. Given the market based approach of the NDIS, market forces will determine the supply of SDA dwellings required to meet participant demand. This may be informed by supply and demand data the NDIA is working to collect and release.

Will a participant be required to choose an in-kind* SDA option if an appropriate one is available?

No. The planning process does not include expressing a preference for either an available in-kind accommodation option, an existing or a new dwelling. Participants can choose to live in either an existing SDA dwelling (including “in-kind”) or in a ‘new build’ provided a suitable option is available.

*Some NDIS participants are receiving services from providers that have been paid in advance. These pre-paid supports and services are called “in-kind”.

Will providers get the maximum price that a dwelling is enrolled for?

The NDIS does not fund providers directly, it provides an individual budget to a participant based on:

- consideration of their goals and preferences;
- the reasonable and necessary test; and
- the SDA eligibility criteria, including the value-for-money test.

Participants will negotiate with providers within their determined SDA budget and the published price limits for SDA. This may mean that the provider of a dwelling that is enrolled as ‘high physical support’ (a higher cost category) can reach a tenancy agreement with a participant who has an SDA budget aligned with ‘improved liveability’ (a lower cost category) in their plan. In this case the participant will have negotiated to make payments that are within the ‘improved liveability’ price limit rather than ‘high physical support.’

In most cases a participant will receive an SDA budget that is sufficient for a shared arrangement (for example with 1-4 others) or to facilitate access to shared supports. Through SDA funding the NDIA anticipates growth in models that make use of smaller built forms (and shared on-site or nearby supports) rather than a perpetuation of group home settings with shared in-home supports, which were most commonly constructed under state and territory systems.

It is important for providers to note that an SDA budget to support a single resident dwelling is only likely to be provided to a very small number of SDA eligible participants (a small percentage of NDIS participants overall), even when the dwelling is in a configuration that makes shared supports possible.

When are SDA eligibility and budgets made?

Eligibility for SDA funding is considered at the time of plan approval and plan review.

A participant’s first NDIS plan may include funding for Support Coordination and Therapeutic Supports to allow assessments and exploration of suitable housing alternatives to be made. If it is demonstrated that SDA is the most appropriate option, SDA funding may then be included at the participant’s next plan review.

SDA is new to the NDIS and it may take time for participants to have the required assessments and for SDA funding to be included in participant plans. Providers should only make an SDA offer once a participant has SDA funding already included in their plan. Providers should not anticipate the outcome of a NDIS plan decision and payments are unable to be made for a period in which SDA was not in a participant's plan.

In cases where participants are already residing in existing disability accommodation previously funded by a state or territory government at the point they transition to the NDIS, the funding required to continue their current living arrangements will be included in their first NDIS plan. Most often participants in this circumstance will receive funding for both SDA and Supported Independent Living (SIL) supports. Where a participant wishes to move, they may require additional assessments in order to determine their eligibility and if eligible, the appropriate level of SDA funding.

A participant's plan must include the participant's statement of goals and aspirations and a statement of participant supports (see what must be included in a participant's plan?).

The statement of participant supports specifies, amongst other matters, the general supports (if any) that will be provided, and the reasonable and necessary supports (if any) that will be funded under the NDIS (s. 33(2)).

SDA is one type of reasonable and necessary support that may be funded for a participant under the NDIS.

Once a participant has SDA funding approved, their plan will specify the design category, building type/s (e.g. 2 bed and 3 bed apartments or houses), and location/s they can look to reside in (see part 4 of the SDA Rules).

Once SDA is in a participant's plan it is highly unlikely it will not be required in subsequent plans. SDA is generally not a transitional support and it is expected that most participants who are found to require SDA funding will continue to require it.

3. Provision of high quality SDA

What innovation is possible through SDA funding?

Under the NDIS, purchasing power will shift from the government to participants. This means participants will exercise choice and create incentives for providers to meet participant demands in new and innovative ways. Several types of innovation are now possible and available to participants.

Apart from determining SDA eligibility and funding levels for participants, and enrolling compliant dwellings once constructed, the NDIA does not play a role in selecting or endorsing particular property designs or developments. Selecting good models and innovations is facilitated through market mechanisms and participant choice.

The NDIA expects this participant choice and control along with the flexibility of the approach, i.e. through the inclusion of multiple dwelling types, will lead to significant innovation in the SDA market over time.

Whereas 'group home' configurations have been the most common form of supported accommodation in the past, participants will likely choose smaller forms of SDA under the NDIS in configurations that still enable sharing supports.

In addition to innovations in design and development of SDA, providers can also now easily implement flexible arrangements that include non-SDA and non-NDIS participant tenants in SDA dwellings. While SDA funding is only able to be spent on an enrolled SDA dwelling from a registered SDA provider, an SDA compliant dwelling could be used in a 'mixed tenant' arrangement, together with non-NDIS participants and/or participants with a different profile and level of need.

Case example of flexible arrangements under SDA

An SDA provider with several dwellings in Sydney has recently completed construction and is now enrolled as new SDA dwelling with the NDIS. The SDA provider is looking for tenants for this new enrolled dwelling.

Barry is an NDIS participant who has SDA in his plan. He would like to stay in the SDA provider's new SDA dwelling. It is a 2 bedroom property that meets Barry's needs, and Barry is keen to move in straight away.

Barry would like to live with his friend Steve, who is not an NDIS participant. The NDIS does not fund supports for non-participants. Steve is happy to pay general market rent for his accommodation.

The SDA provider is happy to have Barry and Steve move into their new enrolled dwelling, because it means they will be able to fill the property immediately. The provider is satisfied with the return they are making through a mixed tenancy arrangement, with Barry supported by NDIS SDA funding, and Steve agreeing to pay general market rent.

Can I charge a non-SDA participant rent?

Yes. A provider is free to engage with a non-SDA participant in a typical lessor/lessee relationship. It is likely that the lessee agreement will reflect general market rental prices rather than SDA price limits, however this negotiation is between the tenant and landlord and not the NDIA.

What standards must SDA dwellings meet?

While innovation in the provision of SDA dwellings is possible and encouraged, all SDA dwellings are required to meet a number of requirements in order to be enrolled with the NDIA, including certification standards.

Currently, providers must possess a written certification against the SDA design standards, and attest to this fact. However, the requirement does not specify a particular profession type to carry out this written certification. The NDIA has noted feedback that further specificity in dwelling certification requirements would provide for greater confidence of compliance, particularly with financiers.

The NDIA will engage a third party to further develop the SDA criteria along with a curriculum and certification process for third-party assessors.

They will develop training packages for assessors, who will lead dwelling assessment (rather than a suitably qualified professional as is now the case). The NDIA expects the availability of third-party assessors will streamline the dwelling certification and enrolment processes and provide extra surety for providers and financiers. This work is expected to be completed by the end of June 2018.

The NDIA will consider at what time there is a reasonable number of certified third-party assessors to support the requirement for third-party assessment.

Dwellings can only be enrolled with the NDIA once construction is fully complete and a certificate of occupancy has been issued, however third-party assessors will be able to be engaged at the design stage. The opportunity for third-party certification of designs by an accredited assessor may be useful for providers. Where providers choose this, final certification will be required once the dwelling is complete for an enrolment to be valid.

Provision of SDA in different states or territories require registration as a provider of SDA with the relevant state or territory quality and safeguards authority. Providers must also meet the quality and safeguard requirements, including all applicable building codes and laws, for each state or territory as outlined in the Guide to Suitability.

4. Connecting with participants

The NDIS employs a market-based approach which enables greater participant choice and control and encourages provider innovation. As such, the NDIA will not centrally administer ‘placements’ for participants. Participants (often with the assistance of support such as a support coordinator as well as families and carers) will be expected to find and apply for appropriate advertised vacancies, and providers will be expected to advertise their vacancies and undertake selection processes.

How will participants find an SDA dwelling?

Participants may consider a variety of advertising platforms when seeking an SDA vacancy. This is aligned to other mainstream housing markets and the NDIS’ objective to support choice and an ordinary life for participants.

The NDIA will assist participants in two ways:

- Funded supports such as a Support Coordinator: participants who require assistance to navigate the finding a home process may receive additional funding in their plan. Where this is the case, a Support Coordinator can assist a participant with all aspects of searching for and considering vacancies, making applications, negotiating a tenancy and transitioning into an SDA option.
- A Provider Finder: the NDIA is progressively improving the provider finder which will enable NDIS participants to exercise greater choice and control by improving the experience of finding and connecting with SDA providers.

In most cases participants with SDA in their plan will use their SDA budget to approach the market. After reviewing advertised SDA vacancies, participants with SDA in their plan will choose which vacancies to apply for.

In practice this will mean a participant will approach an SDA provider who has an advertised vacancy and decide to submit an application for consideration.

A participant will have many considerations when deciding whether or not to apply for an advertised vacancy. For example, a participant will consider whether their plan budget aligns to an advertised vacancy.

A participant can apply for a higher cost SDA type than is included in their plan, however the NDIA will not increase their plan budget in order to make higher payments on their behalf. Instead, in most cases a participant will negotiate with the provider to pay an amount commensurate with their plan budget and so below the dwelling’s maximum price limit. SDA funding is adequate for providers to accommodate a mix of tenants.

In certain circumstances a participant may elect to make a discretionary contribution over and above the reasonable rent contribution[4], however there are specific requirements that must be met under the SDA Rules and the NDIA only anticipates this occurring in very rare circumstances.

Depending on the SDA dwelling, participants will need to carefully consider their likely compatibility with existing residents. This may occur either before deciding to apply, or before accepting an offer.

While this is likely to be the typical path for participants, under the NDIS it is also possible for participants with SDA in their plan to consider pooling their SDA budgets and approaching a developer to explore having an SDA option purpose built for them. Participants, providers

[4] Please see the Terms of Business for Registered Providers for the requirements related to the reasonable rent contribution.

and developers are strongly advised not to assume the outcome of plan decisions as it relates to SDA funding or other funding.

Under the NDIS a participant can also choose to use their SDA budget to provide SDA to themselves. Due to the requirements for SDA, participants will need to become a registered provider and enrol their compliant dwelling in order for this to occur. While the parental home (where the participant is the child) is unable to be used for SDA, an SDA participant can enrol a compliant dwelling where they live with their spouse or de facto partner and children.

Can a participant spend SDA funding on any property?

SDA funds can only be paid to a registered NDIS provider who has a compliant and enrolled dwelling with the NDIA.

Under the SDA funding approach, a participant can decide to be their own SDA provider. In these cases they are also required to become a registered provider, and must enrol a compliant dwelling with the NDIA in order to use their funding.

How do I find an SDA tenant?

The NDIA expects SDA providers will develop and utilise a variety of methods to advertise their SDA vacancies. Many will be market-specific. Some common methods of advertising a vacancy will include:

- the NDIA's provider finder;
- through local networks;
- on their organisation's website;
- accessing one of several emerging web-based/e-market platforms that offer matching and the exploration of vacancies by tenants;
- through local known support coordinators and their networks; and,
- outsourcing to a third party contracted to manage tenancies (such as a real estate agent).

Some very large providers of SDA may pool a portion of their SDA payments to fund a vacancy management team for their SDA portfolio. These teams may operate in a way similar to more centralised approaches delivered by state and territory governments under previous systems.

Some SDA providers may choose to engage a third party to manage their vacancies and tenancies, as is most often the case in the mainstream housing market.

The SDA price limits for SDA have been calculated to include recovery of costs associated with delivering vacancy and tenancy management functions. Payments for vacancies are also available for a limited period of time in limited circumstances as described in the SDA Rules.

SDA providers can also take steps to protect against the risk of vacancies. First and foremost, providers should wait for NDIS participants' SDA eligibility and plan decisions before making offers or investment decisions. Providers should not assume the outcome of a plan decision, and even where participants do end up having SDA funding included in their plan, payments cannot be made for any period that SDA was not in the participant's NDIS plan (SDA Rules 2016).

Providers can look to 'future proof' their investment decisions by designing and developing SDA that could serve multiple uses. This could allow flexibility for providers to offer dwellings to alternate markets (e.g. aged care or the general housing market).

Finally, providers and developers of new SDA dwellings should do their own market research into the supply and demand for the SDA design category within the areas they plan to build a new SDA dwelling. The NDIA will support this research by providing reliable information about demand as it becomes available.