



RESPONSE TO DSS

A Strong Future for Supported Employment

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1. Introduction

DARE Disability Support (DARE) has been providing disability services to people with profound intellectual disabilities for over 50 years in the Blue Mountains and surrounding communities of New South Wales (NSW).

People supported include those with profound intellectual disability, Autism, Down Syndrome together with a range of comorbidities including being non-verbal, physical, psychiatric and behavioural manifesting in aggression, violence and self-harm. Many of the people supported by DARE do not have family or other supports.

Services include supported independent living, community, centre based activities and an Australian Disability Enterprise.

DARE's Australian Disability Enterprise employs approximately 60 people with profound or severe disabilities, predominantly intellectual.

Business Lines include:

- Basic packaging and Assembly,
- Woodwork and firewood, and
- Ground Maintenance.

I have attached a number of case studies of employees working at DARE (Attachment A), these case studies demonstrate the vulnerable nature and high levels of support required for DARE, ADE employees.

2. Construct of the Discussion Paper

A strong future for supported employee's discussion paper (discussion paper) has been prepared with what appears to be little understanding of the operation of ADEs or of conducting a viable commercial operation.

Indeed whilst noting the four foundation principles the majority of questions posed in the discussion paper relate to people with disabilities transitioning to open employment and are not related to the principles as detailed. Indeed unless ADE's can be assisted to be viable on a long term basis the balance of discussions are meaningless.

Current support funding, since the transition from block funding in the early 1990s can only be used to offset the direct costs of support in employment and makes no provision for personal care, nor offsetting the disability related costs that impact on viability.

Further the Department of Social Services (DSS) and the National Disability Insurance Scheme (NDIS), if they are to be market steward's needs to provide guidance as to what their expectations are with regard to measurable outcomes for ADE's into the future.

If the focus is on a viable and sustainable business then supported employees need to have the same rights and responsibilities (within their capacity) as other employees, not as a purchaser of services picking and choosing which tasks they wish to undertake and when they wish to undertake them. Clearly viable business cannot be built without a reliable work force.

On the other hand if the focus is an alternative “employment like” day centre activity then the employment nexus needs to be broken and activities created on an “on demand” basis, This also reconciles with the emphasis on the discussion paper which is focused on transition to open employment and doesn’t view an ADE as a viable business or preferred employment option.

Whilst further argument will be developed later in this submission regarding the benefits arising from employment with an ADE, in DARE’s view the discussion paper contains the inherent view, that despite the participant’s wishes and capabilities, employment within an ADE is substandard to an open employment placement.

This is certainly the view that has been expressed and implemented since the commencement of the NDIS through the former Chief Executive Officer, David Bowen, Planners and Local Area Coordinators in the Blue Mountains region. DARE’s experience, include existing ADE participants not having employment in their plan or being directed to day activities rather than continuing employment. Similarly potential ADE employees advise during the planning process they are offered no discussion around employment options.

NDIS senior staff advise that Planners and Local Area Coordinators have no knowledge of the operations of an ADE, however invitations to tour and meet with ADE employees has been met with the response “they are too busy”.

Until a definitive decision is made with regard to the expected outcomes and a consistent and fully funded support regime created, with employment a mandatory part of a NDIS planning meeting it is doubtful certainly from DARE’s perspective that the ADE will continue into the future.

3. Executive Summary

ADE’s provide a unique opportunity for people with profound or severe disabilities to gain benefits from employment participation, in accordance with a key foundation of the NDIS, Economic participation

Currently the future of ADE’s is very uncertain given a number of environmental factors confronting the sector in the short term this includes:

- Fair Work Commission (FWC) hearing into supported employment wage
- Lack of consideration of employment in participant’s NDIS plans, and
- Cost of supports being artificially set rather than matching the true cost

DARE believes that both the Commonwealth government, DSS and the NDIS can intervene and demonstrate leadership enabling ADE’s to continue providing quality outcomes into the future.

4. Recommendations

The following recommendations are provided for considerations:

- i. Contingencies be created for an adverse finding by the FWC n wage assessment tools, including consideration of the possible supplementation of wage cost,
- ii. Employment to be reclassified in the NDIS planning process to a “Support Process” and employment incorporated as a mandatory component of the NDIS planning process,
- iii. An employment assessment process be created as part of NDIS planning to identify aspirations and capabilities of individuals to undertake employment,
- iv. Create an objective way to measure the value of all outcomes received from participants employed in an ADE,
- v. Consideration be given to the creation of a pathway that provide support, guidance, training, experience in a range of employment settings similar to a traineeship. Alternatively the creation of specialist “employment” Co-ordinators of support be identified and funded to facilitate a process encouraging employment participation,
- vi. Planners and Local Area Co-ordinators are educated and trained in disability employment processes and plans benchmarked to ensure that employment support is being consistently discussed and implemented,
- vii. Local Area Co-ordinators to be retrained to understand their role in co-ordination of support, gather and provide information on all employment options, during planning meetings,
- viii. Current negative attitude towards an ADE placement by NDIS be discouraged and the four principals to be increased to five with the addition of:

“The achievement of people with disabilities attaining employment be celebrated”

The Commonwealth Government:

- ix. Introduce across all tiers of government a protocol requiring all contracts for purchasing of products and services over \$500 be available to ADE’s and that there be affirmative discrimination for any application submitted by an ADE,
- x. Consider an additional tax deduction of 10% to business for any products or services purchased from an ADE, created or delivered utilising people with disabilities,
- xi. Where the supply of either a product or service from an ADE is made to a non-business entity that this be considered a GST free transaction,
- xii. Review the Javits-Wagner-O’Day Act in the United States of America and assess the effectiveness in legislating similar to encourage the employment of people with disabilities in Australia,
- xiii. Review the current rate of reduction in the Disability support pension caused by relatively small increments in income, in order to encourage greater employment participation,
- xiv. In conjunction with the Department of Industry investigate the creation of an entity possibly aligned with state Chambers of Commerce (or similar) to identify commercial opportunities for ADE’s and facilitate applications for work and the creation of large consortia to undertake this work.

5. Focus on the Individual

DARE takes tremendous pride in the fact that it has always delivered services that encourage and develop the individual being supported.

This philosophy is focused on the individual building on their strengths and assisting in meeting their vocational aspirations. The case studies highlighted in Attachment A demonstrate the value of this approach on these individuals.

Through the identification of skills and aspirations DARE enables:

- learning,
- development,
- progression, and
- Improvement.

For many DARE supported employees these goals may be as simple as attending work regularly or getting on with other people.

6. The DARE Workplace

The three case studies (Attachment A) highlight the challenges created in the work place and the impact of these:

- a) Behaviours, including violence, aggression and property damage, people with autism for instance may also choose to sit alone and not be in a group setting,
- b) Medical and mental health issues, resulting in episodic behaviours and extended times off work,
- c) Use of jigs to break down the task to suit individual needs and abilities,
- d) Difficulties in staying on task, including walking away from the work station,
- e) Knowledge retention requiring the repeated retraining of simple tasks on a regular basis,
- f) Personal care issues including eating and toileting,
- g) Transport,
- h) Liaison with family, guardians and other service providers,
- i) Planning and implementing employment goals, and
- j) Education on a range of skills, not directly linked to a unit of physical production including rights, disability standards, working with others, wage assessment tool and literacy.

Currently levels of funded support, provided by the NDIS are not aligned to individual needs, rather at present based on a historical average. Previously an independent review estimated the deficit in the costs of support funding, subsidised by DARE to be in excess of \$150,000.

It is also highly unlikely that a normalised work place will provide the support or tolerance of the issues noted that DARE provides as part of its moral responsibility and mission. Indeed many of the supported employees that have attempted to work in open employment have returned to DARE as

these supports are not available in mainstream employment nor are work places educated and accepting of people requiring this high level of support.

The benefits to supported employees attending DARE include:

- Self-esteem,
- Enhanced health and well-being,
- Creating friendships and peer support networks, and
- Participation and social inclusion in a broader community.

Whilst a sad fact of life it is doubtful that very few if any DARE supported employee will wish to transition to and based on past experience those that have attempted rarely remain in open employment.

7. Environment

Many of the environmental threats confronting ADEs are well documented and include:

- Attempt to remove the current DARE wage assessment tool in favour of the Supported Wage Assessment (or Modified) tool, if the FWC accepts this proposal, in the absence of additional Commonwealth Government support, DARE will have no option but to close the ADE. The expected impact of this decision is estimated to increase DARE's costs by in excess of \$400,000, DARE currently operates the ADE at a break even financial result.

If the FWC delivers an adverse finding given the minimum levels of wages specified under the SWS, this will also act as a major disincentive to employ people with profound disabilities, hence denying them access to employment.

- Lack of new ADE employees, since the commencement of the NDIS, DARE has received nil requests for information or referrals from either planners or Local Area Coordinators, this is consistent with, as has been acknowledged previously the NDIS view towards supported employment. Without employees no business can operate, indeed at the current time, DARE is subsidising some business lines with able bodied workers rather than lose contracts, due to an absence of new participants, and
- A deficit in the true costs of supports and no funding towards personal care support in the workplace. I have commented above with regard to the support cost deficit, something that cannot be reduced without placing either the participant or staff at risk. However, I note on page 15, of the discussion paper a reference to work based personal care support.
- DARE has participants that require support in the workplace and during breaks on a 1:1 basis regularly for toileting, behaviour (generally this causes disruption to the local work area as well) and eating (due to swallowing difficulties) yet has had no provision made for these costs in any participant's plan. This is despite highlighting these issues on numerous occasions with planners or Local Area Coordinators.

Similarly there is no provision for the true cost of transport as DARE's ADE is not on a public transport route, resulting in DARE taking responsibility for ferrying people throughout the day, and

- Need to identify new commercial business lines, this problem is exacerbated in the Blue Mountains due to a lack of local industry. An effective preferential procurement strategy binding on local and state governments may assist with overcoming this, together with possible preferential tax treatment for customers.

8. National Disability Insurance Scheme

The many ongoing systemic issues that have compromised the successful creation of the NDIS and in some instances compromised the welfare of participants, have been well publicised in both the media and through the direct representations of many people, and will not be repeated here.

Problems being experienced by providers and participants are exacerbated by no functioning complaints system within NDIS. DARE was advised recently by a senior NDIS staff member that the internal complaints system is overwhelmed with little point in a complaint being made due to a lack of staff. More recently I have been advised that the Commonwealth Ombudsman has ceased accepting complaints against the NDIS as its resources are similarly overwhelmed.

DARE would argue that this break down in NDIS complaints system is not a result of a lack of staff but rather a broken system that requires structural and cultural change.

For a provider the current market is dominated by the NDIS, with few checks and balances in place to independently monitor, benchmark and measure the performance.

Currently the NDIA unilaterally decide:

- who can enter the market,
- how the market will operate, including the quantum of supports for participants,
- the types of services that will be included in the participant's plan, as has been acknowledged by senior NDIS staff there was an initial refusal, by some planners and LACs to discuss or include employment in plans, particularly for ADEs and DARE has been advised that work based personal care will not be considered,
- the review process,
- the levels of fees to be provided, irrespective of the actual cost of provision, this is reflected in the small number of providers that have entered and operating in the current disability market place, indeed a number of larger providers have left the sector as a result,
- complaints management both internal and against providers, this is failing and as DARE was advised recently despite an existing charter for dealing with complaints, these are not dealt with in either a timely, fair or efficient manner, and
- Who exits the market through deregistration,

Based on DARE and many other providers' experience NDIS has failed in many of the above roles, a number of instances which are detailed in DARE's submission to the Productivity Commission.

The most recent debacle with regard to second year plans demonstrates again the inappropriateness of NDIS market dominance and the vulnerability of providers due to this market dominance. Whilst clearly foreseeable, NDIS made little preparation for plan reviews required as a result of the expiry of first year plans. As a result large funding gaps between plans were created, coupled with further portal failures, in DARE's case this has included a requirement to use its reserves to fund plans for over three months, whilst these mistakes in many instances are still being resolved.

For many employment placements immediate decisions are required as to whether a position may be accepted requiring confirmation of the required support funding, NDIS has demonstrated an inability to respond quickly to any changes in participant's plans, generally even a minor modification requires a full plan review, which may take many months, by which time the vacancy has disappeared.

Prior to the commencement of the roll out of NDIS, there were many negative comments from senior NDIS management with regard to ADE's. At commencement the discussion of employment were avoided by Local Area Coordinators and planners. DARE raised this issue on numerous occasions and in numerous forums, eventually advice was provided from NDIS that this was supposedly addressed. Given DARE has not received a referral or a new participant with employment in their plan since the start of the roll out in July, 2016, it is difficult to believe that this is true. Indeed there have been instances that DARE is aware of where planners and Local Area Coordinators have actively encouraged existing ADE participants to pursue recreational activities in preference to employment.

As noted above after the issue of employment was raised on a number of occasions, DARE was subsequently advised that the problem was planners and Local Area Coordinators didn't understand the operations of an ADE. In response in the Blue Mountains and surrounding regions a number of providers offered tours of individual ADE's to planners and Local Area Coordinators only to be advised that they were too busy to avail themselves of the invitation.

Clearly given the market dominance of NDIS, unless there is a significant education process and change in attitude towards ADEs many including DARE will be unable to survive and certainly not grow.

DARE's view is that if a principle role of NDIS is to find employment for participants then all plans must have an "employment first" element, with people having to opt out of employment due to capacity this is consistent with the receipt of other Commonwealth benefits.

This should be supported with employment being recognised as a "Support Purpose" and not included as a subset of Capacity building.

In addition this may also require guidelines with regard to the timing for provision of recreational pursuits, so that these are not provided in conflict with working hours i.e. placing participants in the position of choosing one or the other.

9. When is Employment not Employment

As noted above the discussion paper appears to separate and infer that employment in an ADE is a lesser outcome than open employment, this is irrespective of individual capacity and aspirations. In DARE's view employment should be considered employment, albeit with different levels of support being available.

Until this mind set, which is shared by NDIS is changed, negative connotations towards ADEs will continue from people with disabilities, families, customers and the general community. Not only does this approach detract from the dignity of this specific employment pathway but has ramifications in pricing expectations from potential customers.

10. Principles to guide the Government's future policy direction for supported employment

Available data clearly demonstrates the disconnect between employment and people with intellectual disabilities (the bulk of DARE participants) with the relatively small number employed. DARE understands approximately 34% of people with an intellectual disability and of working age are employed of which two thirds of these are employed by Australian Disability Enterprises. However the ADE is portrayed as a less than desirable outcome, in DARE's view employment is employment and should be based on individual aspirations and abilities.

Accordingly one of the principles should be celebrating and congratulating people with a disability that obtain employment rather than distinguishing employment in an Australian Disability Enterprise as a lesser achievement. As such a possible further principle should be:

- Acknowledging the achievement of people with a disabilities attaining employment (all types of employment)

11. Commonwealth Government Role in making ADE's viable

To assist ADEs to be commercially viable there are a range of initiatives that could be implemented suggestions include:

- Government Procurement, all tiers of Government, Commonwealth, State and Local be required to make all contracts for products of services available, with a requirement to affirmatively discriminate towards ADEs, subject to an ADE demonstrating capability and the price of their services being within 10% of the lowest price provided. The only exception to be contracts valued at less than \$500.

Where an ADE is unsuccessful, feedback be provided, without disclosing confidential information as to the reasons why they were unsuccessful and ways of improving future responses.

- To support proactive Government procurement similar to the approach adopted in the United State of America through the creation of National Industries for the Blind a body be created either independently or in partnership with State based Chambers of Commerce (also enabling access to their internal member database) charged with identifying these opportunities, advising ADEs and for larger contracts which require State or National presence creating consortia of ADEs to contract and deliver.

In the United States this approach is supported by specific Legislation The Javits–Wagner–O'Day Act which is a U.S. federal law requiring that all federal agencies purchase specified supplies and services from not for profit agencies employing persons who are blind or have other significant disabilities.

DARE is currently not involved in the NDS BuyAbility campaign and has no comment with regard to its value however believes that this is a business issue not a disability issue and as such needs to align with the business sector and break the nexus of being disability related.

- Additional Tax Deduction, in order to encourage the use of ADEs by business, an additional 10% tax deduction on the cost of any service or product purchased from an ADE to be made available, whilst financial modelling is required, this would more than likely be clawed back through savings in other Commonwealth welfare entitlements.
- Goods and Services Tax (GST) free supply on any domestic supply of a service or product created or delivered by an ADE, to provide an incentive for households to utilise services and products from ADEs that these in the future be considered GST free.

12. Specific reference points

The following are discussed in the order as listed in the Discussion Paper

- **What is a good participation outcome?**

DARE has noted above some of the benefits working in an ADE provides to supported employees which include:

- Self-esteem,
- Enhanced health and well-being,
- Generation of additional income,
- Pride in learning new skills and being part of something,
- Creating friendships and peer support networks, and

- Participation and social inclusion in a broader community.

Traditionally the value of these outcomes has never been measured rather the outcomes to assess employment in an ADE has been related solely to the number of employees, hours worked or average wage rates. Clearly each benefit has a value beyond the average hourly wage rate which possibly if calculated may demonstrate a greater value than an open employment outcome.

For instance DARE previously had a number of participants seek and find open employment positions however these were unsuccessful due to lack of acceptance, isolation and bullying within the work place, if these outcomes were measured then supported employment would certainly rate higher than these open employment arrangements.

By valuing these additional outcomes there is also the possibility of creating a matrix to assist people with a disability seeking employment choose their preferred provider.

- **What do supported employees most value about working in an ADE ?**

DARE has already detailed the benefits people with a disability have advised they receive from working at DARE and will not repeat these again other than to note the significant impact employment has on their lives, carers and families.

Conversely I believe that NDIS and DSS should consider the cost of not having ADEs both on the individual, families and the NDIS with regard to finding and funding alternative activities.

- **Why do most supported employees transition back to supported employment from open employment?**

This response is based solely on DARE's experience and no comment is made on the broader sector.

DARE's experiences are that it's employees that have transitioned to open employment have in the vast majority failed for a range of reasons including lack of support, poor acceptance in the workplace leading to isolation and even what they considered to have been bullying. In some instances DARE participants have physically deserted the open work place and been located after an extensive search hiding near their homes.

In addition there has been limited interest by employers to modify tasks or jobs to suit individual abilities and interests together with the wider support generally provided by an ADE with regard to personal care and related issues.

- **How can more supported employees be provided the opportunity to choose open employment?**

Prior to responding to this DARE reiterates the point made previously that supported employment should not be viewed as a lesser outcome and the transition to open employment should be based on choice and aspiration, not on someone else's' view of what is a good employment outcome.

In addition DARE believes the definition of open employment or just employment needs to be reviewed to incorporate a range of hybrids and other models, this may include a mix of supported and what traditionally is considered open employment, enabling a person to retain access to many of the benefits of supported employment whilst trialling other opportunities. Whilst DARE is only aware of minor successful social enterprise ventures there may be a possibility to expand on these or for participants to create individual businesses themselves. However clearly all the above will require the appropriate support funding or are doomed to failure.

The Disability Employment System (DES) is biased against people with profound disabilities or complex needs as success is measured solely by milestone payments and the star rating system both of which require a through put. In the absence of which either DES providers need to absorb costs on an ongoing basis until a difficult placement is made, which may require substantial support to be successful or face the prospect of losing market share as their rating declines.

Local experience has demonstrated that very few DES providers will encourage people with intellectual or profound disabilities to utilise their services, indeed there are instances where people have been actively discouraged or where they become a DES client receive no real support.

This contention is supported by the data recording the small number of people with intellectual disabilities in open employment, indeed it is my understanding that only 7.4% of people with intellectual disabilities are represented in the current DES caseload.

I do not believe it is the role of ADEs, based on the current support funding regime, for which DARE is currently subsidising the NDIS, over \$150,000 to also seek open employment for those that wish to pursue this option.

For the people effectively excluded from the DES model and seeking to transition from an ADE to an alternative employment option as detailed above, there may be possibly an additional or interim pathway, which is a hybrid mixing supported employment, training, placement and support, developed through the NDIS planning process, similar to a traineeship.

- **Why is participant access to concurrent DES and ADE support services so low?**

The main reasons are identified above, certainly DARE participants do not access DES services and their experiences once a placement has been found have been poor, as such there has been little interest from the majority in seeking open employment.

As noted above an interim model, targeted at supporting people with intellectual disabilities providing a hybrid of support, training and possibly work experience which is viewed and funded as an outcome may encourage more people to seek open employment.

- **What is the role a supported employer can play in building employee capacity for transition to open employment?**

As stated the vast majority of DARE participants are not seeking open employment, as they are in an environment in which they feel safe, valued, enjoy their work and have their own peer support networks. For some that have attempted open employment and have had a very negative experience they do not wish to return, as a result DARE sincerely doubts that this belief will change in the near future.

Attached are three case studies illustrating the supports currently provided by DARE for which it is currently only partly funded, this includes training and support, involving very basics tasks such as working with others (which is not always possible), arriving on time, undertaking simple tasks or having a meal with their work mates.

In addition to training on tasks there are a range of unfunded personal care activities undertaken including managing behaviours, toileting and supervising meals.

At DARE through the creation, review and monitoring of Employee Assistance Plans, supported employees are encouraged, if they wish to explore and trial new opportunities at the DARE work place.

Within the current funding arrangements for which DARE currently subsidise the support costs, even if there was an interest in pursuing open employment there is no scope to invest the significant resources required to build capacity for a transition to open employment. DARE believes that this should be a new pathway as detailed separately in this response.

- **What will attract NDIS participants to employment opportunities in the future?**

At the current time there is no requirement as part of the NDIS planning process to discuss employment, if a discussion is held then feedback to DARE in the past is that planners and Local Area Coordinators have attempted to ignore or guide people away from an ADE.

Clearly if neither of these issues are resolved then pathways for participants will continue to be compromised. Suggestions to rectify this include employment becoming a dedicated "Support Purpose" rather than a subset of capacity building and planners and Local Area Coordinators being educated on ADEs.

This may be supported within NDIS by

- Development of an appropriate assessment tool to assess and identify both capacity and aspirations for employment,
- Benchmarking of plans to ensure that an "employment first" approach is adopted and people with similar levels of support are not just streamed into recreation and leisure activities, and
- Creation of internal NDIS Employment ambassadors that can act as advisors, mentors and in-house experts on employment pathways.

Whilst possibly outside the scope of this discussion paper, the dramatic reduction in the level of the Disability Support pension for a relatively minor increase in income represents an effective punitive tax and major disincentive for increasing hours of work or seeking alternative employment options. This also results in people seeking alternative and generally more expensive recreational and leisure options, now funded by NDIS.

A review to restructure the rate the Disability Support Pension and the rate reduced for income is recommended to encourage employment rather than penalise people seeking additional hours or alternative work.

Strategies to support employment participation for people with disability

- **How are ADEs marketing themselves to an expanded market of potential NDIS participants?**

Since the commencement of the NDIS in the region, DARE has attempted a range of initiatives to attract new ADE employees, all unsuccessful. This has included community advertising, local newspaper, the back of buses, mail outs to schools and brochure drops into key access points such as Doctors surgeries or shopping centres.

Unfortunately the gate keepers for all participants are the planners and Local Area Coordinators, who have steadfastly refused to understand the support available and role of an ADE. Attempts to distribute information through the planner and Local Area Coordinator networks have been met with refusal, due to in their view this being a conflict of interest.

Whilst the transition from school assessments were occurring DARE contacted a senior NDIS staff member and asked that brochures regarding employment in the ADE be distributed, whether this occurred DARE has no knowledge however no enquiries were received as a result. In DARE's view the assessors should have been seeking this information, be conversant with options and have information available for distribution.

This refusal is exacerbated given Local Area Coordinators are supposedly undertaking the Coordination of Support role, where no separate Coordination of Supports is funded.

- **What is the range of NDIS supports that ADEs currently offer?**

DARE is unsure as to what information is being sought. Within the ADE support provided in the work place extends beyond training and supervision and includes substantial personal care support for instance DARE has participants that require support in the workplace and during breaks on a 1:1 basis regularly for toileting, behaviour, assistance with attending medical appointments and eating (due to swallowing difficulties) no provision has been made for these costs in any participant's plan.

If information is sought on DARE's other services a full capability statement can be provided on request.

- **What costs would be involved for ADEs that choose to:
a) Reform to more open employment models?**

In order to respond to this, information is required with regard to what other open employment models are being proposed.

Traditionally this has included a reference to enclave, work crew models or social enterprises. DARE is not specifically aware of any long term successful models of these arrangements using large numbers of supported staff.

Given many of the behavioural issues for DARE's ADE staff, interactions with the public and stressful situations need to be avoided for the welfare of all concerned making many of these options not viable.

b) Redevelop as service providers offering other supports?

DARE already offers a range of other supports, in its experience to date the current costs and lack of investment is caused by what DARE believes is an inappropriate level of fees and a system that creates delay, unnecessary overheads and bureaucracy.

For instance DARE purchased a house last year specifically for three Supported Independent Living participants who had been discussing the move with NDIS since August, 2017, as at the time of writing this response these three participants are still navigating the NDIS system. Until situations like this are resolved very few providers will invest in new services.

c) Specialise in the provision of employment support as a non-employer?

DARE, as indicated above suggests the possibility of an alternative employment pathway which may increase the employment options available.

Dependant on the longer term sustainability of ADEs there may be the possibility of an alternative in the creation of "work like" activity centres however the viability of these will be directly linked to the fees available from NDIS to conduct these activities. Whilst not canvasses I suspect a number of the benefits of working in an ADE would be lost with this approach.

- **Should the Government have a role in supporting new market entrants and start-ups in the short term?**

Government should have a role in stimulating supply in thin markets, where there is substantial unmet need or encouraging good practice. However any support should be based on demand and outcomes not targeted at just new providers.

- **What investment or industry adjustment will promote viable expansion in the employer / provider market?**

Given the discussion paper is focussed on ADEs, this response is restricted to consideration of the issues impacting on ADEs, the primary one being certainty. Whilst there is definitely capacity to grow across the industry, DARE has been informed by National Disability Services that there is the potential for a fivefold increase in existing supported employee numbers, this will not occur unless a number of systemic problems are immediately addressed.

Clearly the current wage case will determine the future of DARE's ADE, it is DARE's belief that its current assessment tool is not only fair but rewards supported employees for both their skills and productivity, accordingly an increase will effectively represent an extra cost that is not recovered through commercial activities. As such a wage supplementation is required to maintain current operations.

The lack of an "Employment first" approach in the NDIS planning process, together with the reluctance of planners and Local Area Coordinators to even consider ADEs as an employment option will also lead to closure.

Accordingly for short term survival there is a need for:

- Provision for wage supplementation on an ongoing basis, to offset changes to the wage assessment tool,
- Employment to become a "Support Purpose" in all NDIS plans, and
- Education of planners and Local Area Coordinators with regard to employment and pathways to ADEs.

For growth there is a requirement to access funds to create opportunity and build new pathways, this needs to be built on a viable business case with objectively managed outcomes (refer above comments with regard to what represents a good employment outcome). Current narrow funding guidelines that have been imposed restrict the use of funds and stifle innovation. In the future DARE recommends that hybrid funding models be implemented based on business cases, this may include for instance funding for operational expenses and interest free loans for capital items.

- **How could employer / providers share learnings of their success and failures within a competitive market?**

DARE is not sure in a competitive market how proprietary information would be shared, as noted it does not support the NDS BuyAbility campaign, although "good news" stories will generally be shared through social media in any event.

As noted above the National Industries for the Blind (USA) approach, which creates consortiums to enable the tendering and delivery of larger contracts would appear to be a far better investment of Government funds. The use of an independent facilitator also protects individual's proprietary information.

- **How can wage supplementation be better targeted?**

As noted above the current wage case will determine the future of DARE's ADE, it is DARE's belief that its current assessment tool is not only fair but rewards supported employees for both their skills and productivity, accordingly an increase will effectively represent an extra cost that is not recovered through commercial activities.

As such a wage supplementation is required to maintain current operations, this supplementation will need to recover the difference between the wage costs as calculated by the DARE tool and cost calculated by the SWS together with any additional superannuation or other costs created by the FWC ruling.

Whilst not an element of award supplementation if alternative pathways are created, staff with specific skills with regard to training, support and placement will be required to be successful, these will not be remunerated at the NDIS base wage rate used to calculate fees i.e. SCHADS Award L2 Inc 2. As such either NDIS will need to create a new fees structure or there will need to be some form of supplementation from DSS.

13. Strategies to support employers and service providers to provide effective employment opportunities

- **How can the NDIS enable an employment first approach in planning?**

For the majority of the community people of working age, within their capacity are expected to seek employment, DARE believes people with disability should expect to have the same right provided to them, including the provision of the necessary supports to be successful.

Comment on the "Employment first" approach has been included extensively above, and is summarised below including:

- Employment being included as a Support Purpose,
- Employment being a mandatory discussion as part of the planning process, "Opt out" not "Opt in",
- Creation of an assessment process to assess capability and aspirations,
- Ensure that a budget exists in plans to mitigate delays in plan reviews if an employment opportunity is identified,
- Educate and train planners and Local Area Coordinators on both employment generally and ADEs in particular,
- Planners and Local Area Co-ordinators to cease directing people to recreational and leisure activities in preference to employment, and
- Benchmark plans to identify planners and Local Area Coordinators that are not adopting the "Employment first" approach.

- **How do current assessment processes drive the inclusion of employment supports in an NDIS participants 'plan?**
 - a) **Are existing employment assessment processes appropriate for NDIS participants?**

DARE is unaware of any employment assessment conducted by NDIS, indeed the experience to date is that if employment is discussed at all there appears to be an attempt to guide people into recreation and leisure activities.

Whilst DARE's experiences to date have been limited to new participants accessing other service, due to no new employment participants, there have been substantial delays where people have identified Supported Independent Living in their goals. They are required to seek a full plan review in order to receive a budget once a vacancy is identified. These delays caused by NDIS process should not be allowed to occur with regard to employment in an ADE, particularly given the current support funding is based on an historical average.

DARE's view is that proof of an offer of employment for in excess of eight hours per week work needs to be sufficient to create or utilise a budget within a plan and that the development of a new plan is not required.

- **Are there different approaches to planning that could be explored for different groups of supported employees (e.g. younger workers, established workers, retirement transition)?**

As with the general community people have different aspirations and employers where possible will generally try and meet these aspirations, this decision should not be based on some arbitrarily created group but rather on the individual.

In due course once a proper assessment process and support funding regime is created, DARE assumes that this will be possible.

- a) **How could SLES better support school leavers to build skills and confidence in order to move from school to employment?**

Based on DARE's limited experiences there is a need to be identifying and be discussing employment options far earlier than is currently occurring, including access to work experience.

- **What role could or should an NDIA local area coordinator or planner have in linking participants to an employment opportunity?**

As the gatekeeper for many plans and the Coordinator of Supports for many others the Local Area Coordinators have a crucial role in linking participants to employment, in the absence of DES there is no other body available to undertake this function.

Unfortunately a major weakness in this approach is the short term intensive support required with regard to training and support in order to commence employment is not likely to be available through the Local Area Coordinators, firstly based on pure work load and secondly the provision of employment support requires specialist knowledge and training including for instance having to source work place modifications, educate work places, undertake risk and training assessments and negotiating with employers.

DARE has suggested the creation of a new pathway that sits between DES and ADE that can dedicate the time and expertise in assisting the person with complex needs achieve their aspirations for employment.

Alternatively there is the possibility of creating a specialist “Employment” Coordinators of Support.

- **What role could or should NDIA market stewardship have in developing a market with a range of employment, other supports, or participation options for existing supported employees?**

Prior to commenting on the role of the NDIA as a market steward I would seek clarity from the DSS as to what they believe the role of a government instrumentality, namely NDIA as a market steward is in a Human Services environment?

Certainly in DARE’s direct experience in dealing with NDIS staff, if has been informed repeatedly that the only role of the NDIA is to:

- Create NDIS plans, and
- Fund NDIS plans.

I have previously identified a range of systemic failures that remain and more recently I have been informed by senior NDIS staff of the complete breakdown of their internal complaints system. In addition NDIS does have a conflict of interest with regard to maintaining their budget and investing in new or thin markets.

Given the above and it is DARE’s understanding that the new Quality and Safeguarding Commission (Commission) also has a role in market stewardship, that this would be a better function undertaken by the Commission.

14.Strategies to facilitate greater choice and control for NDIS participants

As noted above the introduction of a proper assessment system, training of planners and Local Area Coordinators, the provision of information and full funding of supports costs should lead to the participant being informed and empowered to make choices that match their aspirations.



15. Exit Strategy

DARE has since July, 2017 been unsuccessfully seeking meetings with senior staff within the NDIS to discuss a contingency plan for a possible exit strategy, particularly given the ramifications of an adverse decision by the FWC.

In the absence of these discussions, the closure of DARE's ADE will result in 60 people with profound and severe disabilities seeking both support and alternative activities to employment.

DARE encourages both the NDIS and DSS to initiate discussions with regard to the possible closure of ADE's and create contingency plans.

If you require any further information please do not hesitate to contact the writer.

Andrew Daly
Chief Executive Officer

Attachment A - Case Studies

Employee A

This person has Fragile X syndrome and an intellectual disability, Fragile X Syndrome (FXS) is a genetic condition causing intellectual disability, behavioural and learning challenges and various physical characteristics. It is also the most common single gene cause of autism worldwide.

Employee A has lived in supported living since a child and has worked at the DARE's Australian Disability Enterprise since 1986.

This employee exhibits behaviours that can be quite frightening to fellow work colleagues and staff. When becoming upset or frustrated this includes shouting obscenities, biting his hand and on occasions lashing out fellow workers. This can also potentially trigger behaviours with his co-workers. Employee A will seek constant reassurance from staff taking up a considerable amount of this person's and staff time.

The triggers for setting off this behaviour can include excessive noise, interaction with other employees that the employee regards as being "bossy", being instructed to do something rather than being asked, and general changes to routine.

At one time Employee A, with DARE secured open employment however, this failed due to his behaviours displayed in the workplace.

Employee A's skill level is moderate however can do many of the jobs when shown. Production levels are compromised by his behaviours, in addition an inability to stand at machines due to a foot condition, associated with Fragile X Syndrome.

DARE has accommodated these behaviours with daily support during working hours, which includes strategies such as:

- Ensuring staff are trained to work with challenging behaviours and deescalating episodes,
- If the work area is noisy ensuring a separate area to work individually, which may be located in another area other to production and additional Supervision,
- Ensuring the area of work does not cause any physical strain e.g. standing for long periods,
- Constant supervision,
- Providing reassurance on a daily basis and letting Employee A know if key staff are going on leave, and
- Building self-esteem and confidence with positive interaction and inclusion.

These strategies enable Employee A to reduce the frequency of his outbursts which in turn improves his wellbeing.

Employee A receives great satisfaction from working and DARE recognises the importance of this and provides support to maintain his employment. As a result of the individualised approach he has

progressed from level 1 to level 3 in skills and competencies, reflecting the learning and knowledge he has acquired and the support offered during his working day.

Employee B

Employee B has worked at DARE Disability for many years and has a mental health condition, schizophrenia, several medical complaints and a mild intellectual disability. This requires taking daily medication, which changes regularly for both mental health and wellbeing.

At work Employee B displays mood swings, yelling, shouting at others, intensely arguing and being upset with an imaginary person; often being hesitant to enter an empty room in case the person is there to harm them, they will often walk off the work area and go into offices or outside.

In addition will attempt to secure food from desks, bins etc. during episodes and as result of behaviour may choose or be required to return home during which 1:1 support is required until the accommodation service arrives.

As a result of medical needs and behaviours only a narrow range of tasks are available, in addition Employee B often needs support due to bouts of incontinence.

The types of support DARE provides to Employee B to assist in maintaining employment include counselling, increased supervision due to wandering, personal care and if required allowing short sleeps to adjust to new/ changed medication all whilst at work and being remunerated.

DARE also provides substantial assistance with transport.

The frequency of the supports occurs on a daily basis and consumes substantial time and resources.

Employee B can work at times at a moderate production level, although this can be variable dependant on medication. They are proud of their employment and enjoy the associated benefits such as friendship, financial and stimulation.

Client B has progressed from level 1 skills and competencies to level 3 during employment with DARE.

Employee C

Employee C is a young person with an Acquired Brain Injury resulting in memory loss, poor memory retention, anxiety and a physical disability as a result relying on others for support in daily living.

The supported employee lives at home with family and is fairly independent when out in the community.

All DARE supported employees receive training on a task, the time taken to achieve the knowledge and skill to do the task can vary.

For Employee C it takes a considerably longer time as a result of poor memory retention, what was learned one day is forgotten the next. This also prevents the use of any equipment due to safety issues resulting from this poor memory retention, therefore only moderately skilled tasks are undertaken.

There are periods where anxiety also causes Employee C distress, including worrying excessively about matters which occur outside and at work, when this level of anxiety reaches a point staff intervention with advice and counselling is required. Physical difficulties also result in work only being able to be completed in areas that are flat.

Employee C skills are rated at a moderate level but support needs are considerable.

The support offered by DARE for Employee C are:

- Provision of intensive training on an ongoing basis, for the same tasks,
- Supervision,
- Appropriate work area which accommodates the physical needs of Employee C, and
- Counselling.

During employment with DARE, Employee C has progressed from level 1 skills and competencies to Level 4.

Employee C's confidence has increased and now participates in workplace committees.

As a result of the Employee Assistance Plan identifying skill deficits and matching this to aspirations during Employee C's employment DARE have supported in attending several T.A.F.E. courses which have been successfully completed, during paid work time.