



# Submission to the Joint Standing Committee on the NDIS

2014

---

Oak Tasmania is a community business (not for profit) that specialises in working with people with disability. Oak Tasmania is committed to 'empowering people with disability to become active and equal citizens of our society'. We aim to achieve this through our vision of 'bridging the gap to independence'.

---

56 Clydesdale Avenue Glenorchy Tasmania 7010 | PO Box 294 Glenorchy Tasmania Australia 7010  
Ph (03) 6272 8244 | Fax (03) 6273 1468 | [info@oak.org.au](mailto:info@oak.org.au) | [www.oak.org.au](http://www.oak.org.au) | ABN 44 055 920 306

[Businesses](#) Mailhouse Tasmania | Oak Sewing Service | Walkabout Industries | Oakdale Industries | Tahune Fields  
[Services](#) Oak Lifestyle Options | Oak Community Living Program | Oak Training Service | Oak Respite Service

Patron – His Excellency the Honourable Peter Underwood AO, Governor of Tasmania

# Introduction & Context

---

Oak Tasmania is pleased to be able to make this submission to the Joint Standing Committee on the National Disability Insurance Scheme. This is our first submission and reflects Oak Tasmania's position and recommendation in this game-changing Australian Government initiative.

Every person, regardless of their abilities, has a right to feel that they are valued members of society. People with disability frequently state that they had often lost touch with any prospect of a meaningful life and worthwhile employment.

If we are serious about ensuring that people with disability flourish and if we consider ourselves as a contributor to their future wellbeing, we need to reflect on current practices in a range of care and education settings to improve support and engagement. If we find in our reflections that our current system is not meeting the needs of people with disability, we clearly need to challenge embedded and underlying assumptions about community acceptance and education and look at service access and provision through a new lens.

Increasing engagement in communities and contributing to a meaningful life, through participation in employment for people with disabilities, benefits not only people with disabilities and their families and carers, but everyone in the wider community by increasing social prosperity. People with disabilities who are connected to their communities and become active citizens will contribute to the social wellbeing of the whole community. People with disabilities who successfully integrate into society can expect improved life outcomes and better housing, as well as greater health and social status: they are more likely to gain employment through community engagement and acceptance and many will choose to live and work in their own communities. The wider community therefore benefits by accruing both economic and social benefits.

Social inclusion strategies aim to reduce social disadvantage by combating social distress and improving health outcomes, community safety, economic opportunities and opportunities for education among individuals, groups and communities.

To achieve these outcomes will not happen without a strong and viable support network. Such networks currently exist in a range of forms, particularly in the not-for-profit sector, through a variety of Community Services and Australian Disability Enterprise (ADE) providers.

The current NDIS system is not conducive to service viability, particularly in a small State like Tasmania. Cash flow appears to have been ignored, forgetting that not for profits are unlikely

to have significant cash reserves or any capacity to borrow against assets. Inevitably services will close. This is either an intended or unintended consequence of the proposed system.

# About Oak Tasmania

---

Oak Tasmania (formerly Oak Enterprises) is a leading provider of services to Tasmanians with a disability. Our services are innovative, creative, and focused on the individual needs of each person. We support the ability of each person to connect with their local community and to maintain a strong link with their families. The Company is currently developing its Strategic Plan 2014-16 to position it for the organizational and service changes that will come from the NDIS.

Oak Tasmania was originally known as the Retarded Citizens Welfare Association (R.C.W.A.) and was founded in 1953 to provide services for children with an intellectual disability. Today, Oak Tasmania is an independent not-for-profit company and also a member company of the Tasmanian Council on Intellectual Disabilities (T.C.I.D.).

Oak Tasmania provides a range of community access and independent living skills training; recreation; supported accommodation and in-home support to enable people with disabilities to live in the community; employment in one of four business services or Australian Disability Enterprises (ADE); and a range of training and development activities. Services are available to any person with a disability or who is disadvantaged.

We have developed a flexible approach to service delivery recognizing that service models need to be both flexible and measurable. We anticipate that we will be recognised by our peers and government for our capacity to be responsive and provide high quality services.

At Oak Tasmania we believe that there is the capacity within everyone to live life without community restrictions. Our job is to break down barriers to achieving life's opportunities and to **bridge the gap to independence**. We believe that the gap to independence can be bridged through seizing opportunities that show an innovative approach to challenging barriers.

Our approach values people being empowered to exercise the same rights and responsibilities as is available to the rest of the community. We link people accessing our services with all aspects of their communities. We strive to achieve best practice in all that we do through innovation and continuous improvement.

# About NDIS Implementation

---

## The challenges faced by providers in transitioning to an individualised funding model:

The challenge is summarized by National Disability Service’s CEO, Dr Ken baker, who stated:

“There are a number of risks,” Baker says. “One is that the people with disability who may have the most complex needs, the most high-support needs or even challenging, aggressive behaviours may be disadvantaged if large organisations with profit in their minds cherry pick. The not-for-profits might not always be sophisticated in business but their sense of mission is very strong and that sense of mission is something we really want to conserve.”

In Tasmania, funding is **currently** provided in a number of ways.

- a. Block funded by DHHS and clients are directed to each funded service by DHHS or a Gateway service (and included by name in Attachment A to the Funding Agreement). Oak receives funding from DHHS for ‘community access’ and ‘residential services’;
- b. Block funded by Health and Ageing for Respite services;
- c. Individual funding by DSS for employment (business) services (ADEs); and
- d. A mix of block and other funding mechanisms from Skills Tasmania for educational services as Oak Tasmania is a Registered Training Organisation.

### i. DHHS Funding

Oak provides a range of services to people with disabilities with higher support needs. This has become an expectation from the Department and other service providers. Consequently, Oak’s Community Services has 54% of its clients with the two highest support categories - ‘high medium’ and ‘high’ level of support needs. These classifications (low; low/medium; medium; high/medium; and high) was previously used by DHHS as a funding measure up until 2012/13.

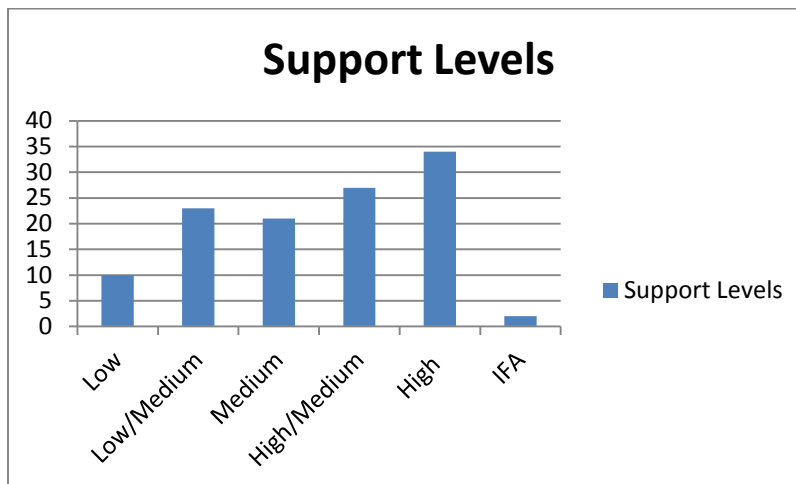
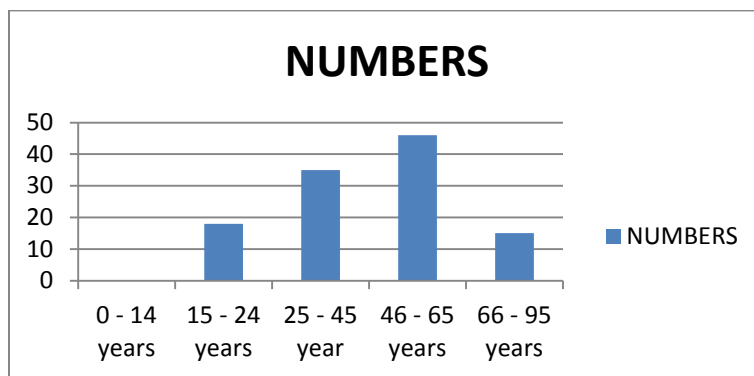
Level	\$ pa per person
High	26,107
High/medium	21,756
Medium	18,855
Low/medium	10,879
Low	6,527

A further category could also be negotiated with the Department for people with exceptionally high support needs but funding was inconsistent and could be individually negotiated (referred to as IFA).

From 2012/13 DHHS changed its funding structure to an ‘individual funding’ of \$24,475 pa regardless of disability support needs. This would have been a windfall for Oak had we a client load of predominantly ‘low and low/medium’ clients. As it is, Oak lost in excess of \$123,000 per annum in recurrent funds, simply because Oak has an imbalance in the highest level of disability and support needs of its clients.

Oak Community Services clients by age are:

0 – 14 years: 0	15 – 24 years: 18 (15.8%)
25 – 45 years: 35 (30.7%)	46 – 65 years: 46 (40.3%)
66 – 95 years: 15 (13.2%)	TOTAL: 114



**Note:** IFA is a special funded amount for 1:1 support, worth in excess of \$62k per person pa.

**Analysis:** As can be seen from the graphs, Oak Community Services has a client portfolio of older clients with very high support needs. This is a significant imbalance in the NDIS world and is an expensive model of service.

Oak currently receives **block funding** – 40% in first week of July; 20% on 1 October; 20% due 1 Jan but usually paid prior to Christmas break); 20% on 1 April. This enables the service to plan service expenditure and support the infrastructure necessary for the provision of services.

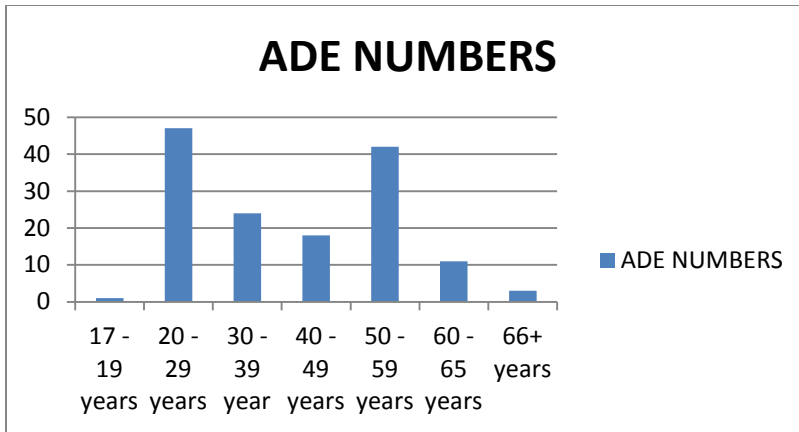
The loss of block funding will put significant strains on the Company. However, Oak is fortunate in that it is only reliant on around 40% of its funding from Government as the remainder is derived from the income of the ADEs. In the main, other providers will not be so fortunate as they are 90-95% dependent on Government funds and have no capacity to adjust their financial levers in a cash flow crisis.

ii. DSS Funding – for ADEs

Oak has an ageing mix of clients in its businesses (ADEs) who are unproductive and are still in the ADE for historical reasons. Of the 146 current supported employees 56% are part time (91); 46% (76) have been employed for 10 years or more (with 42 being employed for 30 years or more); 51% (74) of employees are over the age of 40 (with 2% (3) over the age of 65 – with another 11 reaching that age by the time the NDIS is fully implemented

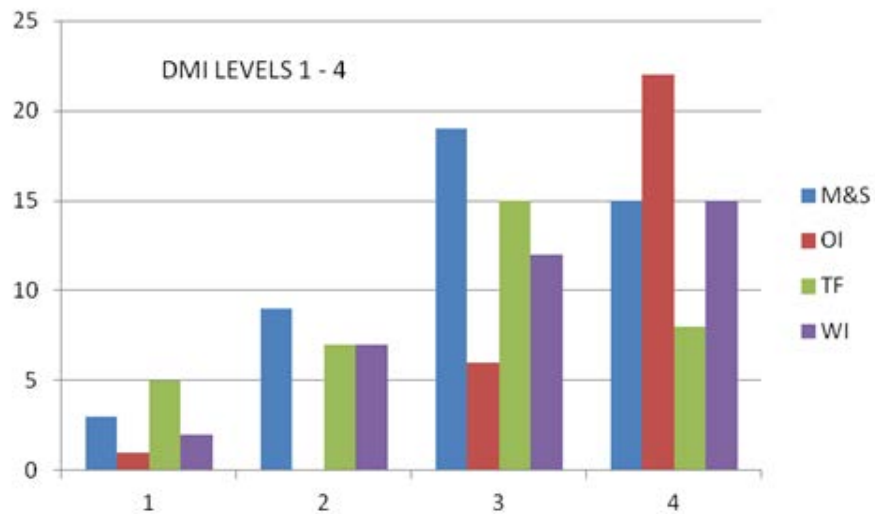
Oak Australian Disability Enterprise – age breakdown

0 – 14 years: 0	17 – 19 years: 1 (0.7%)
20 – 29 years: 47 (32.2%)	30 – 39 years: 24 (16.4%)
40 – 49 years: 18 (12.3%)	50 – 59 years: 42 (28.8%)
60 – 65 years: 11 (7.5%)	66 – 99 years: 3 (2%)
	TOTAL: 146
Males: 112	Females: 34



Disability Maintenance Instrument (DMI) measures the support needs of employees – Level 1 = low support; Level 4 – High support.

DMI Level	1	2	3	4	
Number	11	23	52	60	146
%	7.5%	17.8%	35.6%	41.1%	



**Analysis:** As can be seen from the graphs, Oak's business units have a relatively good balance of ages of employees but nearly 77% are at the higher DMI level (ie with very high support needs). This is also a significant imbalance in the NDIS world and is an expensive model of service to support while trying to maintain productivity.



DSS funding is based on the DMI level and is currently paid individually through the FaHCSIA On-line Financial Management System (FOFMS). Individual payments are made monthly. The hourly rate for support is recorded as a matter of interest.

DMI Level	Amount (pa)	Monthly	Hourly rate (based on 8hr day)
1	\$4,140	\$345	\$1.99
2	\$7,044	\$587	\$3.39
3	\$10,548	\$879	\$5.07
4	\$14,016	\$1,168	\$6.74

DSS funding is for a 'place' rather than the number of days supported. For the supported employee requiring the most support (at DMI level 4) the dollars provided is totally inadequate and this is continued under the NDIS.

**Additional Requirements for Service providers:**

**a. Quality**

Service providers are required to meet Quality Standards for both State and Federal systems. To avoid duplication, Oak has elected to take on board the ISO 9001:2008 certification as our standard measure of Quality. We are also obliged to take on a separate Quality system to meet our ADE Contract with DSS. Combined, the two quality measures cost approximately \$16,000 pa. The ADE certification is currently funded by DSS and we have no indication that this funding will continue post our current Funding Agreement that expires in 2015.

**b. Performance Indicators**

The current DSS Funding Agreement refers to 'Aspirational Performance Indicators':

	<b>Performance Indicator Descriptions</b>	<b>Target</b>
1	Qualifications held by supported employees (people with disabilities)	50%
2	% across all outlets who exit to open employment	5%
3	Funding % of total revenue across organisation	40% or less
4	% across all outlets where annual average wages has increased by more than the % increase in Average Weekly Ordinary Time Earnings (AWOTE), or who already earn the national minimum wage	90%
5	% of Staff across all outlets with a Cert III in Disability Services, or	50%

	equivalent/higher qualification	
6	% across all outlets working fulltime (minimum 35hrs per week)	30%
7	Ave number of hours worked per week across all outlets	26 hrs
8	Training identified in their Employment Assistance Plan (Individual Employment Plan – IEP) & have achieved the specified training	100%

- i. API 2: My understanding is that those persons who want to be in open employment have already moved across to the Disability Employment Services (DES). OAK does not hold back its most productive workers. When OAK operated a DES some years ago there is no doubt that there were benefits in a person with disability learning the protocols of being an employee and successfully preparing them for a satisfying employment experience.

Current government policies prevent the joint funding of an ADE and a DES for the same person. This policy successfully deters supported employees from trying open employment as they are **required to exit the ADE first**. This issue was raised in the “Vision for Sustainable Supported Employment” report. In addition, depending on the skills and competencies of employees, many may not be able to or do not want, to move to open employment. People are often in Supported Employment as they can’t/won’t survive in Open Employment.

A 5% target (ie 8 people in OAKs situation) for supported employees exiting to open employment could see ‘forced’ exits that are not in the best interest of persons with disability.

Do we unilaterally exit the most capable 8 supported employees, regardless of whether they wish to move to open employment? What will be the impact of such an action for the remaining supported employees (and their families) if they know that this is a requirement of their funding? In our experience, the safety and security of an ADE carries more weight than any potential increase in income from open employment.

- ii. API 4: We do have issue with this indicator as our ageing demographic is causing problems currently. As assessments occur (OAK uses the Greenacres Wage Assessment Tool) and people regress we do not reduce their wage (unlike the discredited BSWAT model). In addition, unlike some organisations, we do pass on the pro-rata CPI (Fair Work Australia) increases each year.

Following our most recent assessments 21 employees) regressed in their productivity or competency mainly due to ageing. Achieving this % without changing our employee base is unrealistic and probably unachievable. What happens with the

average if people move to part time as a result of ageing? Currently 51% of our employees are more than 40 years of age.

**c. ADEs as Social Enterprises**

For a number of years, DSS has been actively encouraging ADEs to transition to a 'social enterprises' model. Recognising the need to build sector responsiveness and resilience and ultimately move towards a social enterprise model, the Australian Government has committed to a series of initiatives to help realise this vision and to prepare Australian Disability Enterprises (ADEs) looking to transition to a commercially viable social enterprise or social firm model.

Government funding was provided to SVA, a consortium of partners made up of Social Firms Australia, Social Traders and Matrix on Board, to deliver the Sustainable Social Enterprise Project. The aim of this project is to assist ADEs to become more commercially viable and transition to a social enterprise or make the transition to a social firm with a more integrated working environment.

A particular sub-category of work focussed social enterprises is the 'social firm'. Social firms are not for profit businesses that provide ongoing employment for people with mental illness, disability or who are otherwise disadvantaged in the labour market. The emphases of this model are on generating a *majority* of income by the business activity and having an integrated workforce. ***There is generally a fixed proportion of 'target group' workers (typically 25-50%) who enjoy the same rights and conditions as their co-workers and who are either on Award pay or productivity-based wages.***

A different group of organisations, some of which are considered 'social enterprises' in that they generate *substantial* income through trading, are Australian Disability Enterprises (ADEs). These ADEs pay their employees with disabilities productivity-based wages and they rely on a combination of trading income and grant funding from the Department of Social Services.

The transition by ADEs to a social enterprise model will come at some cost to people with disability currently employed in the sector. Questions need to be raised as to the viability of providing 'employment' options to people with a disability who have little prospect of being 'productive'. Oak, like many service providers, has a cohort of employees who have been employed for many years but who, through either ageing or increasing disability, are not able to contribute to the business in a practical and productive sense. It is no longer good enough to say that a person with a disability should retain their job 'because they like being at the worksite and feel like an employee'.

**d. Collaboration**

Small organisations don't have the cash reserves required to ensure their survival in a less certain funding environment. The fear is that there will be less 'choice' in an environment where 'choice and control' is the aim of the NDIS.

It is critical for the future that small organisations take proactive steps to ensure their survival in the new world. Providers are already discussing entering into a coalition with other small providers to get the 'economy of scale' needed to prepare for the new funding arrangements. Organisations are aware of the importance of having a diverse service offering and about thinking more like a business.

The survival of small service providers under the NDIS is a slow burning issue and we won't see the true impact for a few years yet. It's crucial for true 'choice and control'.

## **The requirement for the NDIA to exhaust in kind supports provided by states prior to any cash funding and the impact this has on choice and control:**

Oak Tasmania has been advised that new participants will not attract new funds but that their support funds will be drawn against the identified 'in kind' funds already paid to the provider as part of the block grant. The point made by NDIA staff is that the 'in kind' funds will be depleted faster and the provider will then be able to access new NDIS funds – the problem is that the access to new funds will only be for eligible NDIS participants.

The lack of new funds to support new participants means that no new additional staff can be employed to support the new participants as the pool of funds is already committed to employ existing staff. For example:

- a. 10 clients currently funded by DHHS @ \$24,475 each for a total of \$244,750 (80% approximately is for funding of support staff ie \$195,800
- b. SACS level 2 (worker rate) = \$43,207 + Super 9.25% + Workcover 4.39% = \$49,101  
SACS level 3 (team leader rate) = \$46,622 + Super and + Workcover = \$52,982  
means that a Team leader and 2.9 support staff can be employed to support the initial 10 DHHS-funded clients (for a ratio of 1 staff:2.56 clients).
- c. If 10 new NDIS participants are included and no new funds are made available to employ support staff, then the ratio changes to a more difficult 1 staff: 5.12 clients. In this scenario workplace behaviours will increase, individual programs will be compromised, Workcover claims will increase (ie injury and stress) leading to increased Workcover premiums.
- d. While the available funds (\$244,750) will be spent in half the time, existing DHHS clients (ie non NDIS) clients will not have access to new funds until 1 July, although new (NDIS) participants will be able to access new funds.
- e. It is a matter of capacity (of the service provider) to take on new unfunded participants within existing resources (and regardless of the possible increase in support needs of the new participants).
- f. The choice and control is, from a service provider perspective, to mitigate risk and NOT accept new NDIS participants if they are unfunded.

## **The future role of the states in direct service delivery, and the impact this may have on the industry, participants and those who are not eligible for the NDIS:**

The Tasmanian Government does not have any role, currently, in direct service delivery. All direct service has been put out to tender to the not for profit sector.

The issue remains on who then continues to fund and deliver services to NDIS-ineligible people with disability. In the main the ineligibility is based on two issues:

- a. They don't qualify as eligible for 'reasonable and necessary supports' ie not disabled enough; and
- b. Over 65 (as they would then qualify for 'aged care' support).

There is no role for the State to re-enter the market for direct service delivery. The market can deliver the service at a cheaper rate than the Government sector.

Governments must, however, be prepared to ensure that a person declared as ineligible does not fall between the cracks. Alternative funding needs to be secured through a commitment by COAG to ensure that 'grandfathering' clauses are not specific to a current group or limited to a specific budget time-frame.

## **Operationalising an 'NDIS ready' workforce:**

The Government recognises that a strong, responsive and NDIS-ready workforce is key to making a better deal for people with disability a reality and expects the disability workforce will more than double by 2019–20.

National Disability Services (NDS) has identified three priority areas:

- Supporting and retaining the existing workforce;
- Ensuring workforce supply to support people with disability into the future; and
- Building the capacity of the workforce to adapt to the new funding model of person-centred choice under the NDIS

Tasmania will struggle to have sufficient numbers of people ready to be engaged in the NDIS workforce. In part this is due to significantly low levels of education within the state and the low levels of literacy and numeracy. ABS reported in 2011/12 that half of all Tasmania aged 15 – 74 years were consistently assessed as functionally illiterate and more than half are functionally innumerate – meaning they don't have the skills to fill out forms or read instructions.

Dr Ben Jensen, the director of the school education program at the Grattan Institute, reported on Lateline in February 2014 that:

"We need a significant change in the expectations around Tasmanian schools and what the education system can produce. That will require some significant reforms that will not be easy and will be opposed by some."

There has been a suggested 'dumbing down' of education in Tasmania so that in 10 or 20 years Tasmania will become a state of 'high unemployment, high poverty and high inter-generational inequality'. Recent reports state that Tasmania has already reached this stage as it has a welfare dependency rate of 33 per cent, and in some areas only 45.5 per cent of students complete Year 12. Tasmania is also the state with the highest rate of poverty in Australia.

Another issue that needs acknowledging in Tasmania is that employment in the 'disability sector' is of low status. At a direct worker level, educational qualifications are largely non-existent and it is incumbent on service providers to fill the education gap through significant training budgets that are not funded by government grants.

Recent Award changes by the previous Federal Government delivered a significant pay increase to the sector, that had been hampered by the perception that pay was extremely low and that you had to have empathy (rather than a desire for fair pay) for people to be bothered to work in the sector. The Fair Work Australia approved award increases of between 19% and 41%

which will at least adjust the pay scale. The unfortunate bind is that the underlying educational issues in Tasmania will still not provide a sufficient 'NDIS-ready workforce'.

John Paton  
Chief Executive Officer  
14 April 2014.