

SUMMARY OF CHANGES TO SPECIALIST DISABILITY ACCOMMODATION FRAMEWORK

FEBRUARY 2019

INTRODUCTION

On 8 February, 2019 the Hon Paul Fletcher, Minister for Families and Social Services, announced 'immediate reforms' to Specialist Disability Accommodation (SDA) to improve choice and control for National Disability Insurance Scheme (NDIS) participants and boost market confidence.

(<https://ministers.dss.gov.au/media-releases/4496>)

The changes arise from an Australian Government review in 2018 of the SDA Pricing and Payments Framework.

This summary provides background to the changes, what has changed now, and future changes to be brought in.

This document draws on the Summer Foundation's understanding of SDA – we have made our best efforts to interpret the Disability Reform Council (DRC) decision. Readers should await further definitive information from government - SDA providers should not rely on this summary to make investment decisions.

The **Get Building SDA National Conference** on 22 March, 2019 in Melbourne will feature the Federal Minister for Families and Social Services and the CEO of the National Disability Insurance Agency (NDIA) talking further about what these changes mean for participants, providers and investors.

SUMMER FOUNDATION'S OVERALL VIEW

The Summer Foundation is pleased to see this wide range of improvements to Specialist Disability Accommodation (SDA) announced by the government.

The government's announcement is significant and meaningful – the changes will dramatically improve the experience of participants seeking SDA, and increase certainty and financial viability for many SDA providers.

This announcement comes after extensive advocacy by the Summer Foundation and other organisations to highlight problems in the way SDA has been operating, creating uncertainty and stress for participants and lack of confidence for housing providers and investors.

The changes to the SDA Framework emphasise choice and control for participants, improvements to assessment processes as well as significant practical measures to help the market deliver new housing.

The Summer Foundation's goal is to support SDA providers to create more than 1,000 new 1, 2 and 3 bedroom SDA properties between now and June 2021. We believe these changes position the market to meet and then exceed this significant commitment.

BACKGROUND – THE TIMELINE OF HOW WE GOT TO WHERE WE ARE

The SDA Pricing and Payment Framework was agreed by the DRC in late 2015. The DRC is made up of State and Commonwealth Ministers who make decisions about disability policy and services. The DRC is overseeing the rollout of the NDIS and deals with any major issues arising with how the NDIS is working during the transition process.

The NDIA created the processes to give life to the SDA Framework in 2016 (e.g. established pricing for SDA supports, created Operational Guidelines for how people will be assessed for SDA).

The SDA Rules under the NDIS Act, which establish the legal basis for how SDA operates, in particular eligibility and other operational matters, were finalised in early 2017.

The Australian Government announced a review of the SDA Framework in May 2018. The review was undertaken by consulting firm KPMG and commenced in May 2018. Consultation roundtables took place and written submissions were received in June 2018. The DRC considered a report from KPMG and proposed changes to SDA in late 2018. The changes announced on 8 February, 2019 reflect the recommendations of the KPMG report and have agreement of all governments.

WHERE ARE THE CHANGES?

Changes have been made to the SDA Pricing and Payments Framework, which was released on Friday 8 February, 2019.

These changes flow through the following SDA documents:

- **The SDA Price Guide.** The SDA Price Guide for 2018-19 was released on 8 February, 2019. This new Price Guide indexes existing prices by CPI. Further changes will be made to the Price Guide later in 2019, following an immediate review of pricing assumptions.
- **SDA Rules and SDA Operational Guidelines.** Changes to the SDA Rules are in train and will be finalised in coming weeks. Some rule changes are still being worked out and will take effect later in 2019.

The KPMG report of the SDA review was also released on 8 February, 2019. This is a lengthy report drawing on the consultations held during June 2018 and provides detailed findings and recommendations to the government.

(https://www.dss.gov.au/sites/default/files/documents/02_2019/sda-framework-review-08022019.pdf)

Not all recommendations in the KPMG report are reflected in the reforms announced by the government, but the government has accepted all recommendations in principle.

WHAT ARE THE CHANGES?

GREATER CERTAINTY ABOUT SDA

Long-term SDA certainty

The SDA Framework has been amended to give people more certainty about SDA. The Framework now clearly states that it is 'intended to provide long-term certainty for participants, providers and infrastructure investors about the enduring nature of specialist disability accommodation under the NDIS' (SDA Pricing and Payments Framework, para 8, p. 2).

Participants likely to remain SDA eligible over their lifetime

The SDA Framework now confirms the ongoing nature of SDA funding in a participant's plan: 'it is not envisaged that a participant, once found eligible for SDA, would lose that eligibility' (para 71, p. 11).

The government's announcement also reiterated the commitment to SDA being for around 28,000 people with disability in the NDIS.

This highlights the issue of extent of SDA undersupply in the current market. More information on SDA supply and under-supply can be found in the Summer Foundation and SGS Economics' SDA Market Insights report.

(<https://www.summerfoundation.org.au/resources/sda-market-insights/>)

MORE CHOICE AND CONTROL FOR NDIS PARTICIPANTS WHO ARE FUNDED FOR SDA

Centrality of choice and control

The SDA Framework now includes an additional statement that establishes the 'centrality of a participant's choice and independence and right to exercise control over their life' (para 12, p. 3).

SDA funding to be provided in an eligible participant's plan, even if a dwelling is not available

This change means that participants can know they have SDA funding in their plan, and look across the market for suitable housing. NDIS participants do not need an SDA offer to have SDA included in their plan.

For providers, this means they can know that people looking for SDA housing have guaranteed SDA funding because it will appear in the participant's plan prior to making an SDA offer. SDA funding will only be provided for participants who ask for this funding.

The current rules make this difficult because it is assumed a dwelling is already available when a participant is being assessed for SDA. Providers have not been able to anticipate SDA demand to build new housing, when it has not been clear who will have SDA funding.

The SDA Rules will be changed to make it clear that SDA funding can be put into a plan (provisionally) even where a suitable dwelling is not available, or even built yet.

This is a very important change which will provide greater flexibility for participants to look for providers who can supply the best housing for them.

Remove barriers and disincentives for families to live together in SDA

Presently the SDA pricing makes it very difficult for an NDIS participant with SDA funding to live with someone who doesn't have SDA funding. This has been a hard policy which is preventing people with disability being able to live with their spouses or partners, children or other people.

The three current barriers to accommodating families are that:

1. The SDA Rules require each resident to have their own room – this means a participant in a couple relationship needs to have a 2-bedroom dwelling, and a couple with a child can only live in a 3-bedroom property.
2. The SDA Rules also require that a majority of bedrooms meet the design category requirement (e.g. a participant in a couple relationship and a child in a High Physical Support Apartment need to have a 3-bedroom apartment; and 2 of those bedrooms must meet Livable Housing Australia Platinum).
3. The SDA pricing assumes all residents have SDA. This means a participant's SDA payment drops by 40-60% because the pricing assumes they are sharing with another SDA resident. The SDA provider receives less income from housing a participant and their partner and child than if they housed the participant by themselves.

These restrictions increase the cost of housing families unnecessarily, and providers receive less funding from SDA than if they had just accommodated the participant without their family.

DRC agreed to change the SDA Rules to fix this problem, including by:

- Allowing couples and children to share a room where they choose to do so (e.g. enabling a couple to live in a 1-bedroom unit)
- Removing the majority of bedroom rule (e.g. a couple and child live in a 2-bedroom SDA high physical support property, only one—rather than both—bedrooms need to meet LHA Platinum standards)

The DRC has committed to explore ways to reduce disincentive and barriers for families to live together in an SDA dwelling, noting that SDA funding can only be used for the support of eligible NDIS participants.

The government is still working out the details, but it is clear that changes to enable family members to live together in SDA will be put in place in mid-2019.

PARTICIPANT PLANNING PROCESSES

A number of important changes have been announced, which will address delays in SDA decisions by the NDIA and lack of transparency in the SDA assessment process.

Participants will not need to prove they have exhausted all housing options

Exploring all other alternatives to SDA resulted in many participants taking a long time and using a lot of support coordination funding to document the lack of any other suitable housing. This requirement is being changed, so participants do not have to waste support coordination funding and can get an SDA decision faster.

Dedicated NDIA planning team, fast-tracking of SDA assessment decisions and priority for those in aged care or hospital

A dedicated NDIA planning team will make SDA approvals quicker by fast-tracking eligibility decisions for priority groups – including for young people in aged care and in hospital, as well as participants who have an offer of SDA and are seeking to expedite a decision about their SDA funding.

More NDIA guidance to help people in the SDA planning process

The SDA eligibility and evidence requirements have been a barrier to participants, support coordinators and SDA providers understanding who is eligible and how eligibility is demonstrated. The NDIA will provide more guidance to improve the quality and accuracy of all stakeholders' approach to SDA.

Together, these 3 changes will help streamline assessment processes for SDA and provide more information to participants about the SDA application and assessment process.

These are very significant changes. They mean that NDIS participants will have a faster and less complicated pathway to getting an SDA decision from the NDIA.

SDA PRICING ASSUMPTIONS AND REVIEWS

Pricing reviews only review the underlying cost of providing SDA

There is new clarity about the 5-year pricing reviews in the SDA Framework. SDA pricing reviews 'will only review the specific underlying assumptions within the pricing methodology every 5 years' (DRC response to Review recommendations, page 1).

This indicates that the SDA pricing formula will be more transparent in how the prices are calculated. Providers had raised concerns that SDA price reviews could be influenced by factors other than the cost of providing SDA. The DRC outcome requires the NDIS to review prices for SDA based on the SDA formula, which only takes account of the cost of supplying SDA. SDA prices will better reflect assumptions about the cost of supplying SDA.

The latest SDA Price Guide contains significantly more information now about the context of SDA in the NDIS (2018-19 Price Guide pages 4 – 6) and sets out the underlying assumptions about how prices are set (pages 15 – 17).

Pricing reviews will involve external expert advice, with a draft pricing outcome for industry comment before finalisation

Provider and investor confidence in the SDA price review processes will improve with the involvement of independent experts in the price reviews. Prior to finalising any changes in pricing, the NDIA will release a draft set of prices for industry comment.

The NDIA will be required to work with a 'panel of independent experts with relevant skills and expertise in pricing' to undertake the pricing reviews. Importantly, a new SDA Reference Group will be involved in setting the criteria for selecting independent experts.

Standardised timing for 5-yearly pricing reviews

The SDA Framework retains a price review 'every 5 years' (DRC response to Review recommendations, page 1).

The next review will take place in 2023 (later than the original review date of 2021). Pricing reviews will occur in the 6 months prior to 1 July in the year of the review. This pricing extension will give providers more certainty about the current prices and allow providers currently considering investments to make decisions knowing the SDA pricing will apply for longer.

The review of the SDA Framework has not resulted in extending the period of certainty for SDA prices. During the SDA review process some stakeholders recommended extending the length of time that SDA prices would apply for (extending from the current 5 years to 10, 15 or 20 years). The DRC has decided not to change the frequency of SDA price reviews. Instead, SDA pricing is reviewed every 5 years against a transparent pricing formula that only considers the cost of supplying SDA.

The Summer Foundation's view is that 5-yearly reviews allow prices to continue to reflect current market conditions. This approach would mean that SDA prices can keep pace with increases in land price values in Australia, and increasing interest rates, when these occur.

Pricing can increase, but not decrease, within the 5-year pricing window

The NDIA can commission a "special price review" within the 5-year period. This can only be done in response to systemic cost increases for providers or where intended outcomes are not being achieved.

This includes reference to "investment in particular regions or design categories", suggesting that pricing adjustments may be needed to improve investment in certain types of SDA or in certain locations.

A 'special price review' within the 5-year window can result in an increase in SDA pricing, but not a decrease.

These are important changes for SDA providers and investors, providing much more certainty about the process and timing of SDA price reviews. This will build greater confidence in the market about developing new SDA housing, critical for providing new housing options for people with disability.

Immediate price review, with any higher prices starting on 1 July 2019

An immediate review of SDA pricing assumptions will be undertaken in 2019 in consultation with independent experts.

This immediate review is designed to resolve issues where providers consider there may be unintentional disincentives for investment in SDA. The KPMG Review heard from providers about the particular financial challenges in making the SDA pricing viable for houses and townhouses in metropolitan city locations.

This immediate review will happen soon, with changes in prices taking effect from 1 July, 2019. This review would not result in reductions to current SDA prices – giving comfort to providers that the only changes in prices will be increases.

Dwelling enrolment and pre-certification

Dwelling enrolment and certification were frequent issues raised by providers in the KPMG Review.

The DRC statement makes 2 improvements to the way dwellings are certified and enrolled.

SDA pre-certification approach

The NDIA will introduce 'pre-certification' of SDA properties (off the plan or under construction). This means that SDA providers can have certainty that their dwellings will meet the SDA requirements prior to being finalised, reducing the risk of a non-compliant building at completion. It also means the enrolment process can be faster, with all information provided to the NDIA for enrolment, making the final enrolment by the NDIA quicker when the Certificate of Occupancy is available.

SDA dwelling enrolled back with NDIA, rather than the NDIS Quality and Safeguards Commission

DRC has switched the responsibilities for dwelling enrolment from the newly established NDIS Quality and Safeguards Commission back to the NDIA. Although the Quality and Safeguards Commission will still register providers, SDA dwellings will be enrolled by the NDIA.

This change is expected to give providers a more streamlined process that connects the timing of dwelling enrolment with the NDIA SDA approval process.

Note: The Summer Foundation and Social Ventures Australia have been working together to share data with the market about SDA properties that are in the pipeline, not yet completed and enrolled. This data will be released at the **Get Building SDA National Conference** on 22 March in Melbourne.

MORE CONSULTATION ABOUT SDA IN FUTURE

A new SDA advisory group to improve stakeholder engagement

The SDA Framework contains a new statement that future changes to the Framework 'will only occur following significant and broad consultation with participants, providers, governments and investors' (para 8, page 2).

The SDA Framework establishes an ongoing SDA Reference Group 'to support the development of the SDA market, choice and control for participants and the long-term viability of SDA investments' (para 105, p. 16). It will have 12 appointed representatives. The Expression of Interest process for the SDA Reference Group has opened, and closes on 22 February, 2019. (<https://www.ndis.gov.au/sda-reference-group>)

Other changes

- Information about SDA is to be consolidated into a single document to be published on the NDIA website. This change will be helpful as the details of how SDA works is presently found across several documents, such as the SDA Pricing and Payments Framework, SDA Price Guide, SDA Rules and SDA Decision Paper
- The NDIA is to release an SDA Innovation Plan by July 2019 to facilitate development of innovative design options for SDA, including publishing research on innovative SDA designs, sharing data about participants dwelling preferences and establishing a program of innovation showcases for SDA
- The SDA Framework requires quarterly reporting of SDA data (paras 106 and 107, page 17). This has already begun, with the NDIA starting to publish data about SDA in their last Quarterly Report (September 2018)
- The pricing formula will not assume providers are not for profit organisations, with access to tax concessions or reduced capital costs. This means that SDA pricing will not disadvantage providers who do not have access to these concessions, as pricing will assume relevant taxes apply to SDA for all providers