

YPIRAC:

Changes Required to NDIS Processes and Government

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1. What is the issue?

In response to the Royal Commission into Aged Care Quality and Safety, the Australian Federal Government adopted two targets which address the fact that some people under 65 (younger people) end up living in residential aged care facilities (RACF), a living situation which is not suited to their needs, has negative impacts which are well documented and as much has been acknowledged for decades.¹ The first target, for 2022, is that no person under 45 lives in RACF, and no person under 65 enters RACF after 2022. The second target, set for 2025, is that no person under 65 lives in RACF.² This brief is constructed under instruction from Shelter NSW to assess the progress towards these targets since the Royal Commission, and present solutions which will provide a path to achieve them.

There have been efforts to achieve these targets, including the foundation of National Disability Insurance Agency (NDIA) YPIRAC planners to assist younger people in transitioning out of RACF and a number of progressions in specialist disability accommodation (SDA) market transparency and stewardship. These include the formation of the SDA Working Group, Quarterly SDA market updates, and further work from non-government agencies such as the Summer Foundation to communicate with investors.³

Despite these efforts, there are a great number of younger people who continue to live in RACF when their needs would be better met by SDA and/or Supported Independent Living (SIL). While there is SDA being built and housing providers seeking to run this accommodation for younger people with a disability, the central issue is that the NDIA is not approving SDA funding for eligible participants in an accurate, appropriate and timely manner. There are a number of aspects of the NDIA's approval process that require scrutiny and revision.

As a result, the sector appears likely to fail to reach the targets for 2022 and 2025. Development of new SDA currently seems adequate, but there is a large demand for SDA currently lying dormant. Younger people continue to enter and live in RACF when an appropriate, client-centred assessment of their needs would allow many to enter

¹ Commonwealth of Australia. Senate Community Affairs References Committee Secretariat. *Quality and Equity in Aged Care*. Canberra: Commonwealth of Australia, June 2005. https://www.aph.gov.au/parliamentary_business/committees/senate/community_affairs/completed_inquiries/2004-07/aged_care04/report/c04

² Commonwealth of Australia. Department of Social Services. *Younger People in Residential Aged Care: Strategy 2020-25*. Canberra: DSS, 2020. https://www.dss.gov.au/sites/default/files/documents/09_2020/dac_younger-people-residential-aged-care_20092020.pdf

³ Winkler, D., McLeod, J., Mulherin, P., Rathbone, A. & Ryan, M. *Specialist Disability Accommodation (SDA) Explainer for Investors*. Melbourne: Summer Foundation, and JBWere, 2020. https://www.summerfoundation.org.au/wp-content/uploads/2021/02/2020_Winkler_SDA-Explainer-for-investors.pdf

SDA and improve their quality of life. When this occurs for the majority of younger people in residential aged care (YPIRAC), a true picture of SDA demand will emerge.

Improvements to the National Disability Insurance Scheme (NDIS) funding process from start to finish are needed along with changes to the assessments of NDIS participants at hospitals, and acceptance by NSW government of the 2022 NCC which mandates liveability standards for all new homes. These solutions have the potential to ensure a healthy SDA development market, an easier transition to SIL in the future, achievement of the Federal Government's targets for YPIRAC, and ultimately an improvement in confidence, functionality and comfort for younger people requiring care.

2. What are the current options for YPIRAC?

There are 3,899 younger people currently living in residential aged care, and over 50 new younger people enter aged care every month. This reflects only a moderate decrease from 5,905 in September 2018.⁴ In light of these numbers, and the Federal Government's Strategy 2020-25, Insight Consulting completed interviews with key people involved with aged care and younger people to discuss possible options for YPIRAC, and their key needs that must be addressed. In particular, respondents were asked about the value in bringing together YPIRAC into one wing of an existing facility, or separate care facility entirely, and outlined what features are important to accommodation for younger people requiring care. Another key question in these interviews involved how options for YPIRAC may differ in rural areas.

The most common physical features of accommodation for YPIRAC were quiet spaces, spaces to entertain guests, no dead-ends or locked doors, and environmental features which would be familiar to residents, based on what was popular when those residents were in their 30s. Respondents also highlighted the importance of activities and experiences as a way to engage with others, with these generally arranged by an involved and valued Activities Coordinator. All of these are geared towards improving residents' quality of life, helping them to feel comfortable and at home, rather than trapped in a restrictive, unfamiliar environment.

Unfortunately, it was also widely reported that it is rare that aged care facilities do the above well. All respondents expressed that care for those in RACF needs improvement across the sector in terms of staffing, centring care on clients rather than management, and creating a homely, familiar place instead of an institutional, restrictive one. As a result, while respondents generally saw bringing younger people together as an improvement to being dispersed across RACF, they saw the improvement as ultimately insignificant in the face of a faulty model of care. The Aged and Community Care

⁴ Royal Commission into Aged Care Quality and Safety. *Younger People in Residential Aged Care – Action Plan* (cat. no. CTH.0001.5000.1934). Canberra: March 2019. <https://agedcare.royalcommission.gov.au/system/files/2020-06/CTH.0001.5000.1931.pdf>

Providers Association points out that living choices for younger people in aged care should ultimately rest with them and be worked through on a case-by-case basis.

With regards to the suggestions that younger people be brought together into one facility/wing, the closest feasible option is group homes. The key differences of a group home as opposed to bringing younger people together in RACF are that the number is capped much lower (5 residents), the environment is much more like a typical home, and residents can be carefully chosen based on personalities and preferences (though this doesn't necessarily occur). In addition, the accommodation and the support providers are not one and the same, as tends to be the case in RACF, so support providers can be changed without lengthy processes to change accommodation. Group homes are a type of SDA and form the largest type (40%) of SDA in NSW.⁵

Not all respondents were supportive of group homes as the preferred option for YPIRAC. As all respondents agreed, the personal choices of younger people should be central to decision made about their care, and some respondents were eager to point out that many younger people don't have any desire to live with others outside of their family. Every person in RACF has a unique set of reasons for their residency there, and it is very common for YPIRAC to have an acquired brain injury.⁶ These people have not been accustomed to requiring care and support and are often far more comfortable living in their own home, or a new home with the same people they are used to. This is another key reason why the option to bring together YPIRAC into one facility/wing would fail to provide the best quality of life to younger people.

For the many younger people who would prefer not to live in a group home but cannot continue to live in their current home, other forms of SDA are far more suitable. These can include apartments, townhouses or houses, with varying designs providing different levels of support. The Summer Foundation, in their research on types of SDA, have concluded that currently other forms of SDA can be overlooked in favour of group homes because of an assumption that SDA with sole occupancy is more expensive per person than SDA with larger occupancy. This is despite the reality that sole-occupancy SDA is generally more affordable than group homes, and despite the preferences of SDA participants. The Summer Foundation also suggest there isn't currently enough SDA with a robust design,⁷ which the NDIA SDA Quarterly report shows is the least popular design.⁸

⁵ National Disability Insurance Scheme. *NDIS specialist disability accommodation 2021-22 quarter 2 report*. Canberra: NDIS, February 2022. <https://data.ndis.gov.au/media/3225/download?attachment>

⁶ Sheridan, A. *Younger People in Residential Aged Care*. Sydney: Shelter NSW, 2020. <https://shelternsw.org.au/wp-content/uploads/2021/01/Younger-People-in-Residential-Aged-Care-REPORT-for-SHELTER-N.S.W-by-A.Sheridan-NOV-2020.pdf>

⁷ Torres, D., Condi. A. *SDA in Thin Markets*. Melbourne: Summer Foundation Limited, 2021. <https://www.summerfoundation.org.au/wp-content/uploads/2021/06/SDA-in-Thin-Markets-JUNE-2021-web.pdf>

⁸ National Disability Insurance Scheme. February 2022.

Whether a younger person requiring care will be best accommodated in their own home with support or in SDA, respondents highlighted a lack of education on these options as a reason that people end up in RACF. The role of NDIA YPIRAC planners is further discussed in the following section.

With regards to rural settings, respondents acknowledged that solutions may need to be adapted in thinner markets, but ultimately the concerns around RACF solutions remained the same. Currently, SDA is strongly focussed on metro areas, and the expansion to thinner markets relies largely on growth of investor confidence based on SDA trends in the near future as well as better understanding of true SDA demand in rural areas.⁹ Furthermore, workforce and supply-chain challenges in the construction sector disproportionately affects the ability for SDA to penetrate rural markets.

3. What are the current barriers to SDA and other supports?

Data provided by the Summer Foundation¹⁰ indicate that there are currently 3,000 vacancies in disability accommodation across Australia, with 800 of those vacancies in newly built SDA. The NDIA's most recent Quarterly Report also gives insight into the pipeline of upcoming SDA, which includes 2,162 dwellings in Australia, 612 of those in NSW.¹¹ Despite these current and upcoming vacancies, there are 4,267 NDIS participants seeking SDA, with 1,399 of those in NSW.¹² As mentioned, there are 3,899 younger people in RACF, and over 50 younger people entering RACF each month, many of whom should be considered for SDA based on the same disabilities that have resulted in their residence in aged care.

These figures indicate that there is an opportunity to enable significant strides towards the Federal Government's targets for YPIRAC using available and upcoming SDA, though significantly more SDA will be required to meet the full extent of true demand. The high number of younger people still in RACF suggests that there are many who should already be occupying SDA that has been lying vacant. In fact, only 53% of the 30,000 NDIS participants expected to be eligible for SDA are actually receiving it, leaving around 14,000 people who should receive SDA funding without it.¹³ This is due to serious issues with allocating SDA funding to those who need it.

Firstly, the process to approve NDIS funding takes far too long. The NDIA takes two months on average to approve NDIS funding and much longer to approve SDA funding, with some SDA applicants waiting up to 12 months. As a result, each month over 1,100

⁹ Torres, D., Condi. A. 2021.

¹⁰ Summer Foundation. *Pre-Budget Submission*. Melbourne: Summer Foundation, January 2022. <https://www.summerfoundation.org.au/wp-content/uploads/2022/02/Pre-Budget-Submission-Summer-Foundation.pdf>

¹¹ National Disability Insurance Scheme. February 2022.

¹² Ibid.

¹³ Aimers, N., Wellecke, C., Winkler, D., Rathbone, A., & Mulherin, P. *Specialist Disability Accommodation Supply in Australia*. Melbourne: Housing Hub and Summer Foundation, 2021. https://downloads.ctfassets.net/blhxs4s3wp2f/3RIO3wYY3C55JlzMy7WcBc/9a57efbc717f0e956c7f6b37bdf4b92d/SDA_Supply_Report_2021_id_v5.pdf

NDIS participants are kept in Australian hospitals with no appropriate accommodation to move to. Due to the lengthy process to approve NDIS funding, and especially SDA funding, these participants require the resources of our hospitals at a cost of \$860 million a year.¹⁴ This amounts to more than the entire NDIS allocation for SDA (\$700 million per annum), and is a situation with no winners as NDIS participants live in hospital for months longer than they need, using valuable resources that could be redistributed.

Secondly, the process of funding approval to often fails to provide the best possible advice to NDIS participants. The NDIA do not sufficiently educate NDIS participants about SDA and SIL, leading to reduced uptake of those options. In particular, NDIA YPIRAC planners and NDIA Support Coordinators have an opportunity to educate participants on their available options, and a duty to provide participants with the best determination based on their needs. Indeed, the YPIRAC Strategy 2020-25 outlines education for younger people as critical to their informed choices, and states that younger people should be supported that they may have control over where they live.¹⁵ Unfortunately, we instead are seeing some NDIS participants receive a funding allocation that does not match the living situation that they require, and opportunities for SDA and SIL missed in favour of RACF or extended time in hospital.

Thirdly, when NDIS participants receive a funding determination that is insufficient for their needs, they have to take the matter to the Administrative Appeals Tribunal, which can take another year to process. Combined with months waiting for an initial determination on SDA funding, this can mean up to two years for appropriate accommodation and care.

This under-allocation of SDA funds is reflected in the NDIS budget. The NDIS has \$700 million committed for SDA each year, but last year only allocated 31% of these funds, continuing a pattern of severe under-allocation. As a follow-on effect to the consequence that people who should be in SDA are missing out, investor confidence is at risk of dropping as new SDA sits dormant, which would lead to a drying up of SDA pipelines.¹⁶ A true reflection of the demand for SDA would instead instigate significant further SDA development. The Summer Foundation have laid out how the NDIA might make use of its unallocated funds to accelerate the process of moving eligible NDIS participants out of hospitals and RACF and into SDA.¹⁷

Lastly, assessment of need made in hospitals can have a negative impact on NDIS funding approval for participants. While in hospital a person's needs are not the same

¹⁴ Summer Foundation. January 2022.

¹⁵ Commonwealth of Australia. Department of Social Services. 2020.

¹⁶ Madhavan, D., Mulherin, P., Winkler, D. *Specialist Disability Accommodation (SDA) Investor Think Tank: Findings and Recommendations*. Melbourne: Summer Foundation, 2021.

https://www.summerfoundation.org.au/wp-content/uploads/2021/08/SDA_INVESTOR_THINK_TANK_-_Findings_and_Recommendations_-_AUG_2021.pdf

¹⁷ Summer Foundation. January 2022.

as at home, and there is a risk that hospital staff under-estimate the level of support required for people as a result. Given the drawn-out funding process, especially for SDA, staff may also be hesitant to assess a person as requiring a higher level of funding for fear that the person's hospital stay will only be extended.

4. Recommendations

There are a number of improvements to the NDIS funding process that need revision.

Firstly, the funding allocation process must be made much more efficient. The aged care sector has an efficient process for allocating funding for care, and can serve as a benchmark for the NDIS. Shelter NSW supports the Summer Foundation's recommendation that it take no longer than 10 days to allocate housing and support funding for all NDIS participants, and no longer than 3 days for those stuck in hospital or at risk of entering aged care.¹⁸ An increase in the efficiency of this process has many significant positive effects, including that participants no longer stay for months in hospital or RACF, SDA are filled instead of remaining vacant, and participants gain a greater sense of control over their living situation with prompt communication from the NDIA.

Secondly, the NDIA should revise how their clients are educated about their choices, in particular through the advice of NDIA YPIRAC planners. For participants suited to SDA and/or SIL, it is paramount that they understand what these options are in order to have real agency and make an informed decision regarding their accommodation and support. A greater understanding of SDA by NDIS participants will result in the activation of SDA demand, and a boost to investor confidence. If YPIRAC planners and NDIA Support Coordinators understand their role in facilitating this change, and the benefits to participants, investors, and the NDIS budget long-term, NDIS participants in turn will receive the accommodation and support they require for comfort, confidence and functionality. This would also likely result in fewer disputes over funding determinations. In addition, Individual Advocacy Services should be increased as independent bodies who assist participants negotiate SDA funding and resolve complaints.

Thirdly, in cases where NDIS participants do contest their funding determination, the NDIA should hold themselves to the standard of a model litigant. Proceedings in the AAT are drawn-out for up to 12-months, when a responsible approach by the NDIA to appeals will result in faster settlements which allow participants the care they require without languishing in RACF or hospital.

There are also changes to government policy at a state level which would pave the way for future SDA pipelines. A number of respondents in our interview process highlighted adoption of the National Construction Code's agreed upon Liveable Housing Design Silver Level in NSW. Currently, the NSW government has decided not to adopt these

¹⁸ Summer Foundation. January 2022.

standards, despite acceptance in Queensland, Victoria, Tasmania, South Australia, the Northern Territory and the ACT. The NSW government has an opportunity to get on board with the 2022 NCC and make all new housing accessible. This would mean people who require support in the future may be better equipped to continue living in their own home for longer, along with benefits for the safety and comfort of all NSW residents.¹⁹ For some YPIRAC, SIL may be a viable option but hasn't been adopted due to inaccessibility and safety issues. Adopting this standard of liveable housing increases opportunity for supported independent living for current and future younger people requiring support.

With NSW Health involved in the assessment and transition of NDIS participants out of hospital, there is a need to review this process, in particular regarding the accurate assessment of participants' needs. A more efficient funding determination process from the NDIA should contribute to greater confidence of hospital staff to recommend an appropriate level of funding, knowing that a determination will come back quickly even for higher-needs participants. Actions may include the training of staff to understand the differences in participant needs at the hospital and at home, and to keep them informed of future changes to NDIS processes and standards. Additionally, staff should be encouraged to share feedback with the NDIA regarding the transition process. Summer Foundation have laid out how the Federal Government can invest to drastically improve the involvement of hospitals with younger people requiring NDIS support Australia-wide.²⁰

Lastly, in rural markets, there is a need to foster positive collaboration between the NDIA, participants and service providers. Where there is a lack of SDA and a lack of understanding of SDA, there is an increased chance we will see younger people continue to end up in RACF. To assist the development of SDA in rural markets, the NDIA in its role as market stewards should consider renewing their Rural and Remote Strategy, as laid out originally for 2016-2019.²¹ Activating SDA demand through the recommendations above, combined with providing accurate SDA demand data for rural areas to investors, will help foster confidence in rural SDA development.

5. Conclusion

A slow and inaccurate NDIS funding application process is sabotaging what could be a financially responsible solution for YPIRAC and other NDIS participants. Instead, the current process drains the resources, money and time of government services to achieve inappropriate living circumstances for vulnerable NDIS participants.

¹⁹ Livable Housing Australia. *Livable Housing Design Guidelines: Fourth Edition*. Forest Lodge, NSW: Livable Housing Australia, 2017. https://livablehousingaustralia.org.au/wp-content/uploads/2021/02/SLLHA_GuidelinesJuly2017FINAL4.pdf

²⁰ Summer Foundation. January 2022.

²¹ Torres, D., Condi. A. 2021.

Many younger people who are currently stuck in inappropriate scenarios such as RACF and long hospital stays will benefit from an efficient NDIS funding process, better planning advice, and quicker resolutions to funding determination disputes. The NDIA must fulfil its role as a model litigant in appeals process, as well as its role as a market steward to ensure the continuation of SDA development, especially in thin markets.

The state government also has a role to play in ensuring hospital staff provide accurate assessments of participant needs and supporting the 2022 NCC in adopting Liveability Housing Design Silver Level standards.



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