The Australian Rehabilitation and Assistive Technology Association (ARATA): Response to the Joint Standing Committee on the National Disability Insurance Scheme Parliamentary Inquiry into Independent Assessments

Prepared and submitted in April 2021 for
The Joint Standing Committee on the National Disability Insurance Scheme (NDIS)

Prepared by

The Australian Rehabilitation and Assistive Technology Association (ARATA)

ARATA would like to acknowledge and thank those ARATA members who are NDIS participants and contributed their experience of, and reporting from, participation in the NDIS Independent Assessment pilot to inform this submission.

1. **Summary Overview of the Australian Rehabilitation and Assistive Technology Association (ARATA) Position on Independent Assessments Currently Being Piloted**

ARATA endorses the Government position that NDIS access and planning processes must be fair and equitable for all Scheme applicants and participants, regardless of individual circumstance. However, ARATA does not endorse nor support the approach to Independent Assessments in the form currently being piloted. ARATA has outlined the reason for this position within the detailed response below, and joins others in the sector to call for an urgent halt to the existing Independent Assessment pilot process.

Collaborative codesign of an effective, individualised approach to NDIS access requests and planning processes is required to address the equity issues identified by Government. A codesigned approach starts with skilled and person-centred NDIS access assessment and/or NDIS planning based on each participant’s goals for participation, and the supports needed to meet their specific requirements.

ARATA remains available to collaborate with the Australian Government and National Disability Insurance Agency (NDIA), as well as people with disability, their families, and other Disabled Persons' Organisations and peak bodies, to ensure that improved processes meet the needs of all Australians with disability applying for, or participating in, the NDIS.

2. **About the Australian Rehabilitation and Assistive Technology Association (ARATA)**

ARATA is the national peak body representing rehabilitation and assistive technology (AT) stakeholders, working to advance access to rehabilitation and assistive technologies, and to promote practices that ensure positive outcomes from their use for people with disabilities. ARATA provides a national forum for information sharing and liaison between people who are involved with the use, selection, customisation, supply, research and ongoing support of rehabilitation and assistive technologies. We promote, develop, and support the national rehabilitation and assistive technology community of practice. Through its membership, ARATA represents the interests and opinions of the full range of assistive technology stakeholders in Australia: AT users, AT researchers, AT suppliers, and AT Practitioners including allied health professionals and rehabilitation engineers working in the area of
assistive technology. ARATA’s response to the Joint Standing Committee on the National Disability Insurance Scheme (NDIS) inquiry into independent assessments therefore encompasses many viewpoints, and advocates that roles for all stakeholders must be considered, most importantly people with disabilities and their families who may engage with the NDIS. ARATA is linked to sister organisations worldwide through the Global Alliance of Assistive Technology Organisations and the CREATe ASIA Agreement. ARATA has made various previous submissions to government. See http://www.arata.org.au/education-resources/publications/

Of note for this inquiry, the ARATA membership is made up of many stakeholders, including people with disability who use assistive technology and are NDIS participants. Some members shared their individual experiences and final reporting of the pilot NDIS Independent Assessment process they had undertaken in confidence with the ARATA Board, in order to inform this submission. These members have reviewed and inputted to the final draft of the following response and ARATA thanks them for their important contributions.

3. About Assistive Technology

Assistive Technology (AT) is an umbrella term for any device or system that allows individuals to perform tasks they would otherwise be unable to do, or increases the ease and safety with which tasks can be performed (World Health Organization, 2004). Assistive technology can be anything from a simple device in the kitchen to a wheelchair or a computer application. Assistive technology is vital in enabling participation in society despite the presence of disability. Assistive technology not only minimises the impact of impairments, but it enables people to:

- Enhance their independence
- Work, study and volunteer
- Care for themselves and others
- Engage in cultural, social, educational, recreational and spiritual lives alongside the rest of the community.
4. Inquiry Terms of Reference

As part of the Committee’s role to inquire into the implementation, performance and governance of the National Disability Insurance Scheme (NDIS), ARATA understands the Committee has decided to conduct an inquiry into independent assessments (IA) under the NDIS, with the following terms of reference:

a. the development, modelling, reasons and justifications for the introduction of independent assessments into the NDIS;
b. the impact of similar policies in other jurisdictions and in the provision of other government services;
c. the human and financial resources needed to effectively implement independent assessments;
d. the independence, qualifications, training, expertise and quality assurance of assessors;
e. the appropriateness of the assessment tools selected for use in independent assessments to determine plan funding;
f. the implications of independent assessments for access to and eligibility for the NDIS;
g. the implications of independent assessments for NDIS planning, including decisions related to funding reasonable and necessary supports;
h. the circumstances in which a person may not be required to complete an independent assessment;
i. opportunities to review or challenge the outcomes of independent assessments;
j. the appropriateness of independent assessments for particular cohorts of people with disability, including Aboriginal and Torres Strait Islander peoples, people from regional, rural and remote areas, and people from culturally and linguistically diverse backgrounds;
k. the appropriateness of independent assessments for people with particular disability types, including psychosocial disability; and
l. any other related matters.

ARATA’s response to this inquiry is detailed below, and reported against those terms of reference that ARATA has existing member and Board expertise to respond to, thus not all terms of reference have been commented on or commented on in detail.
The development, modelling, reasons and justifications for the introduction of independent assessments

ARATA endorses the Australian Government position that all people who apply to access the NDIS, or receive an annual review of their NDIS plan, should have equal opportunity to represent their eligibility for the Scheme for access, and for their goals and support needs for NDIS planning purposes. ARATA understands that one of the issues identified is that some people can afford to purchase or already have access to allied health reporting for Scheme access or plan review, and others do not – this is unfair. However, ARATA’s position is that the National Disability Insurance Agency’s (NDIA) proposed approach to address this inequity through the use of the IA process, as it has been designed and is being piloted, is fundamentally flawed and should be ceased.

The CEO of the NDIA, Martin Hoffman, stated in an open letter to NDIS participants in October 2020, “Independent assessments give a simpler, faster and fairer basis for making decisions about access to the NDIS and plan” (Hoffman, 2020). However, you will see through this response that this is not correct. ARATA does not endorse that the introduction of independent assessments using the approach that is being piloted by the NDIA is an adequate solution to this issue. This is firstly because every person’s circumstances are different and, without a customised approach to allied health assessment and reporting for Scheme access or annual review, there is no doubt that individual circumstances, experiences and impacts of disability will be overlooked. However, there are many other reasons that inform our final position on the need to urgently rethink the processes to address Scheme equity, and these have been detailed in other sections of this response.

As a starting point, the information released by the Agency and previous Minister for the NDIS (Minister Stuart Robert) has often been presented in way that indicates that – even though the IA process is currently being piloted – it will be implemented regardless of pilot results. For example, whilst the pilot was underway, organisations who were successful in the tender to deliver IA services were announced, job advertisements appeared for IA roles (which ARATA has reviewed in full – see below) and public domain information emerged on a start date for the IA process through the contracted organisations’ advertisements. This has been damaging to the public trust of a genuine ‘pilot’ process.
Following, ARATA notes that NDIS documentation states, “Independent assessments provide an understanding of your functional capacity which includes things like how you function at home and in the community, as well as the overall impact your disability has on your life. The assessment will provide the information we will use to inform the amount of funding provided in your draft plan” (NDIS, 2021a). This is in contrast to other public domain information, including letters provided back to participants in the IA pilot, which state, “It will not be used to decide any future plans unless you ask us to use it during a planning meeting”. This conflicting information is confusing, and must be clarified in order to assist the person who is considering or asked to participate in an IA to make an informed decision with an understanding of how the information will be used.

The impact of similar policies in other jurisdictions and in the provision of other government services

The NDIA could model their approach from other well-established existing state-based injury insurers assisting people with significant and permanent disability with Scheme planning (e.g., the Transport Accident Commission in Victoria; Insurance and Care NSW (icare). These Schemes have worked closely with Scheme participants and allied health professionals, and drawn from existing evidence, to recommend a range of possible assessment tools that may be used to consider a person’s goals and support needs. However, these Agencies also allow flexibility for open-ended discussion, and decision making about those published measures that are appropriate to use and those that are not. See for example, https://www.tac.vic.gov.au/providers/type/physiotherapist/achieving-outcomes/outcome-measures or https://www.icare.nsw.gov.au/practitioners-and-providers/healthcare-and-service-providers/assessment-tools-and-resources

As a concrete example, the Functional Independence Review Process used by the Transport Accident Commission in Victoria offers a comprehensive (up to 8-10 hour) assessment conducted over an appropriate period of time (often multiple visits by an appointed allied health professional) to develop a plan for the provision of TAC funded services (which may include identification of further assessment required in specific areas e.g. in relation to Assistive Technology). It should be noted that the assessment includes direct observation and assessment of the person in their home (and sometimes in the community), discussion with
the person regarding their goals and life aspirations, standardised or published assessments (if indicated based on individual circumstance, but not mandated), and liaison with family and support workers as appropriate. All clinical providers (including allied health providers, medical practitioners, attendant care providers, community group programs, employers etc) are then consulted. Then the person receives the supports to develop a comprehensive plan for TAC funded services for the next 12 months. This is in contrast the very brief (<3 hour) NDIS Independent Assessment process, which lacks this person-centred and collaborative approach.

**The independence, qualifications, training, expertise and quality assurance of assessors**

Some members of ARATA, and also allied health online communities of practice, have expressed strong opposition to the use of Independent Assessments. This is for many reasons that have been highlighted in other areas of this report. In part, however, it is due to concerns that the contracted organisations will likely attract an often new or inexperienced graduate allied health workforce, with risk of high workforce turn over, given the repetitive nature of assessment required in this role. Based on the pricing of the tender, when coupled with the hourly rate being advertised by the contracted organisations for staff employed into the roles, it is apparent that this is the workforce that is being targeted. This is highly concerning given that this role is more specialised. Independent assessment would require a skill set akin to an advanced practitioner or a medicolegal allied health assessor. This is required if an expert, holistic independent assessment were to be delivered.

**The appropriateness of the assessment tools selected for use in independent assessments to determine plan funding**

ARATA acknowledges the substantial evidence-based work undertaken for the Agency by Dr Ros Madden, Professor Nick Glozier and colleagues to inform the final independent assessment toolkit published on the NDIS website (NDIS, 2020). ARATA has also reviewed the Functional Capacity Framework report, which reviewed multiple available published measures to inform the subset now being proposed. The document seems to have now been removed from the NDIS website, but is mentioned here: [https://www.ndis.gov.au/news/5260-ndia-releases-new-functional-capacity-framework](https://www.ndis.gov.au/news/5260-ndia-releases-new-functional-capacity-framework)
For a range of reasons including limited investment in health and medical research funding, and under resourcing of disability practice and research, there is a lack of quality evidence to enable standardised assessment across the diverse populations and fields of disability practice. ARATA holds significant concerns about the cultural and context sensitivity of some of the measures proposed (e.g. reference to USA currency, as one example). However, ARATA also acknowledges the lack of evidence and investment in relevant tool development, particularly in Australia.

Taking an evidence-based approach is fully endorsed by ARATA, and it is hoped will lead to further investment in much needed tool development, testing and validation, coupled with individualised and qualitative methodologies, to capture outcomes of importance to people living with disability. In the meantime, some of the proposed tools are simply not suitable for use with Australians with disability, or those from various cultural backgrounds within or beyond Australia. Again, the Agency could learn from other previous government initiatives. For example, during the five-year National Young People in Residential Aged Care Initiative, it was identified that the needs and goals of this population are varied, multiple and complex. For this reason, the states contracted organisations to develop a customised, mixed methods approach to the assessment process and allocated up to 40 hours per person for this assessment process (in contrast to the three hours allocated for an IA, which would be very challenging to deliver a holistic assessment within). See for example the Victorian assessment process and tools used with people with various types of disability, via https://www.summerfoundation.org.au/wp-content/uploads/SF-YPIRAC-Support-Needs-2007.pdf and evaluation process and tools also used with people with various types of disability, via https://www.summerfoundation.org.au/wp-content/uploads/quality-of-life-evaluation-2012.pdf (Winkler, Sloan & Callaway, 2007; Winkler, Holgate, Sloan & Callaway, 2012).

Following, there are some key references drawn on in the Independent Assessment Framework in which Dr Madden and colleagues discuss how to best conduct measurement in the context of the three tenets of evidence-based practice – that is, the best external evidence; individual practitioner's clinical expertise; and consumer preference (Madden & Bundy, 2018; Madden, Glozier, Fortune, Dyson, Gilroy, Bundy, Llewellyn, Salvador-Carulla,
However, it would seem the IA approach has focussed on available published and standardised measures, despite the likelihood that these are not fit for purpose for many NDIS participants, and has insufficiently embedded the further two evidence-based practice tenets of competent practitioner opinion and consumer knowledge and preference, as is further outlined below.

As an Association made up of stakeholders in the area of assistive technology, ARATA is in particular concerned about the lack of ability for these standardised assessments to assess and/or identify the need for assistive technology. This omission – when coupled with the very brief observation of functional tasks proposed - is likely to lead to gaps in an independent assessment. This was evidenced in the report supplied by one of our members who engaged in the pilot process. The functional task recorded by the assessor with this person was ‘general conversation’ and it was noted in the final independent assessment report that an assessment of ‘self care’ was not undertaken. The lack of reference to use of customised assistive technology needed as a result of the person’s sensory disability was therefore apparent in the final report.

The implications of independent assessments for access to and eligibility for the NDIS

It is apparent that the initial ambition of the NDIA and consultants outlined above was to identify a set of published measures that offer an evidenced and standardised approach to classifying functioning (one evidence-based practice principle). However, the lack of focus upon the equally important evidence-based practice principles of appropriate professional perspective/opinion, and skilled facilitation of consumer preference, present two significant risks already identified or observed in the pilot implementation of independent assessments. These will have a profound and unfair impact on access to and assessed eligibility for the NDIS:

- **Clinical opinion:** An allied health professional without expertise in the type of disability the person experiences is allocated to complete the independent assessment – This was exemplified recently for an ARATA member who participated in the Independent Assessment pilot this year and shared their final reporting and outcomes with the ARATA Board as part of this submission preparation. This person has a significant sensory
disability, with no physical disabilities experienced. The person was allocated a physiotherapist to complete this assessment. The physiotherapist was able to identify the range of assistive technologies this person required as a result of their disability from the self-report of the person. However, when it came to reporting on support needs of the person with disability across the domains of everyday activities, the therapist listed 'no need for support' across personal care or domestic activities, and transport. Yet, the person has a very high level of need for human and/or assistive technology supports across these activities, without which they would be unable to live in the community by themselves. For example, this individual requires human supports or environmental design supports to be independent and safe at home or in work or community environments (e.g. visual alert smoke alarm), but these were not noted in the final report. This example demonstrates that the existing published measures in the Independent Assessment Toolkit, when coupled with an independent assessment completed by an allied health professional that may have no experience of the disability type or the impact this disability may have on everyday activities, has led to an incorrect and inadequate report which will now need to be appealed by the person with a request to address these significant errors. Fortunately, this individual has a capacity to self-advocate for this appeal; however, others may not, and if they do not have support to do this the incorrect independent assessment would be retained by the NDIA.

- **Exploring consumer need and preference:** The person with disability requires support for decision making as a result of psychosocial and/or cognitive disability – or an overlay of complex and multiple disabilities, complex social circumstances or a culturally and linguistically diverse background – and does not have that required support available to adequately participate and thus the person and the independent assessor do not identify the range of needs the person has – The 2017 Productivity Commission report into NDIS costs identified some key subgroups of NDIS participants that are at greatest risk of having less positive experiences of the NDIS, and/or experiencing multiple disadvantage, “The groups at risk of having a less positive experience include those with psychosocial disability, complex and multiple disabilities, and language and cultural barriers, as well as people with disability transitioning into the community from the criminal justice system, the homeless and the socially isolated” (Productivity Commission, 2017, p. 50). The Independent Assessment process as it has been designed does not
accommodate the multiple complexity and/or disadvantage of this sub-group of NDIS participants. Assessments selected for the Independent Assessment toolkit do not accommodate culturally and linguistically diverse populations, adequately assess the impacts of psychosocial or cognitive disability or complex and multiple intersecting disabilities, or complex social circumstances for those who are homeless or socially isolated. If a person in this subgroup does not have support for the Independent Assessment process, or insight into their complex and multiple needs, it is likely that the assessment will be incomplete causing further potential disadvantage for the person.

The implications of independent assessments for NDIS planning, including decisions related to funding reasonable and necessary supports

The independent assessment process for NDIS planning, whilst focused on functional capacity, necessarily requires contextualisation in relation to an individual’s unique participation goals. As noted above, although drawing on existing evidence, the approach to Independent Assessments developed and implemented in the pilot period is fundamentally flawed for four main reasons (however other relevant points have also been made in this submission):

1. It tries to deliver a brief, standardised approach to assessment of support needs; however, this is not possible given the individual goals and needs of a person with lived experience of disability and – specific to NDIS eligibility – does not offer a level of detail that can inform consideration of eligibility against the NDIS Act;
2. It uses measures and methods that may not pick up on the range of disability-related support needs and associated contextual factors that impact participation, rendering the IA results incorrect;
3. It risks allocating an allied health professional who may not have expertise in the disability type experienced by the person who is undergoing the assessment (e.g. a physiotherapist allocated to assess someone with no physical support needs), which conflicts with professional scope of practice;
4. It does not demonstrate a level of cultural safety for people from culturally and linguistically diverse backgrounds, or people with multiple and complex needs or whom may need support for decision making (which may or may not be available to them).
These key factors risk rendering the findings of independent assessments incorrect, and also may compromise the quality and effectiveness of the use of assessment findings for NDIS planning, including decisions related to funding reasonable and necessary supports.

The following three terms of reference:

- The circumstances in which a person may not be required to complete an independent assessment
- The appropriateness of independent assessments for particular cohorts of people with disability, including Aboriginal and Torres Strait Islander peoples, people from regional, rural and remote areas, and people from culturally and linguistically diverse backgrounds
- The appropriateness of independent assessments for people with particular disability types, including psychosocial disability.

These three specific terms of reference are hard to answer in full, as the Independent Assessment process is lacking some transparency in relation to how the person will be required to complete an independent assessment beyond the pilot period. Through searching the NDIS website in preparation for this submission, we found the following information: “Once you are in the NDIS, you may be asked to complete an independent assessment from time to time to make sure your NDIS plan and budget are right for you. For example, if you have a change in circumstances that means you need more support. If your independent assessment shows your functional capacity has significantly improved, and you no longer need NDIS funded supports, we’ll help you to transition from the Scheme. We will assist you to make the most of mainstream services like health and education and ensure you have a smooth transition. If your circumstances change, and you need the NDIS again, you can reapply to access the Scheme.” (NDIS, 2021b). In the pilot period, however, the NDIA has put in writing to voluntary Independent Assessment participants that results “will not be used to decide any future plans unless you ask us to use it during a planning meeting”. It is unclear if this will be the case once the IA process is implemented permanently. Again, this information is lacking and also appears conflicting in what has been proposed for pilot versus what will occur upon full launch of NDIS Independent Assessments.
The circumstances in which a person may not be required to complete an independent assessment

It is difficult from the existing NDIS information available to determine the existing circumstances that the NDIA would identify mean a person may not be required to complete an Independent Assessment. When preparing this submission, we searched for this information and found only the following, which is specific to Independent Assessments for NDIS access: “If you don’t meet the age, residency or permanency eligibility rules of the NDIS, we won’t ask you to do an independent assessment” (NDIS, 2021b).

As stated in this submission, it is ARATA’s position that at this point in time the process is not fit for purpose, and should be ceased. If the Agency however continues the Independent Assessment process against the range of sector advice, ARATA would recommend as a starting point a person may not be required to complete an Independent Assessment if:

- They have an existing allied health professional who knows them well whom they would prefer to complete the assessment with them, in place of an independent assessor;
- They have no informal or formal advocacy support, and this lack of support is coupled with the experience a cognitive communication disability that impacts their need for support for decision making – before consideration of an Independent Assessment, the person should be supported to engage advocacy support;
- They are Aboriginal or Torres Strait Islander, or come from Culturally and Linguistically Diverse backgrounds, which the Independent Assessment Toolkit and associated published measures do not adequately consider.
- They reside in a remote or very remote setting where the contracted agencies conducting the Independent Assessment have no physical or routine presence in that community, which risks resulting in a poor understanding of service provision in a remote setting and the availability of supports for participants.
- They are an NDIS participant with multiple and complex needs that require assessment and support from more appropriately qualified and experienced, and preferably familiar, assessors. An NDIS example of participant complexity requiring different resources is the “Planner Complex Support Needs Branch NT” which provides a greater level of Agency support to participants with complex needs in the Northern Territory.
Opportunities to review or challenge the outcomes of independent assessments

ARATA notes in the open letter to NDIS participants that the NDIS CEO states, “If you do not agree with an NDIA decision from an Independent Assessment you can request a review or appeal” (Hoffman, 2020). However, there is no detail regarding how this request for review or appeal would be actioned. It is vital during the current pilot period – or if any future iteration of Independent Assessments are pursued – that processes to challenge outcomes of Independent Assessments are clear, transparent and consistent. The NDIA is yet to establish a clear transparent and consistent process with current S100 reviews and the process by which the NDIS participant may progress the matter to the AAT is also lacking in documented guidance, and in practice has been observed to be inconsistent. Given the current delay on NDIA review of S40 and S100 requests, there is every risk that there would be significant delay for participants in hearing back from the NDIA on appeal of an Independent Assessment. This raises further concerns about this process.

Other related matters

Assistive Technology is an important enabler to participation for people who experience significant and permanent disability and may partake in the current pilot or proposed future Independent Assessment process. As experienced by some of our members who have participated in the Independent Assessment pilot, it is apparent that some of the allied health professionals being appointed into Independent Assessment assessor roles are not adequately experienced to be able to consider the types of assistive technology a person may currently use (or may require but may not currently have access to), or alternatively to represent the activities in which the person requires support as a result of their disability (even when assistive technology is observed by the assessor as being present that would be used within these activities).

5. Conclusion

It is ARATA’s position that the Independent Assessment process as it is currently being piloted is fundamentally flawed for a number of subgroups of NDIS participants. We identify issues in relation to the use of the current form of Independent Assessment for both Scheme access, as well as plan and Scheme eligibility reviews (NDIS, 2021b). We strongly encourage the Committee to recommend a cessation of the existing Independent Assessment pilot and
encourage consideration of use of a more person-centred, holistic, individualised and effective process for Scheme access and review, aligned with the original aspirations of the Scheme and the current NDIS Act. This process must be co-designed with people with lived experience of disability and their families. At the same time, it will be necessary for the NDIA to improve the NDIS access request and planning processes via investment in targeted allied health assessments for those people who cannot access these themselves (e.g. for evidence for access request) and improved quality of the planning process to ensure holistic planning conversations are undertaken to ensure equitable planning outcomes.

We thank the Committee for undertaking this important inquiry, and encourage Committee members to listen most importantly to the voices of people with lived experience of disability and their families who have participated in the pilot Independent Assessment process, or have individual perspectives on it. ARATA would be happy to be contacted at any point regarding our submission.

A/Prof Libby Callaway  
ARATA President

Mr Andrew Congdon  
ARATA General Board Member

Ms Jenni Dabelstein  
ARATA Vice President

Mr Stephen Hales  
ARATA Treasurer

Ms Robyn Guthrie  
ARATA General Board Member

Dr Michele Verdonck  
ARATA General Board Member
References


