



National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016

National Disability Insurance Scheme Act 2013 (the Act)

The Act establishes the National Disability Insurance Scheme (NDIS).

People who are participants in the NDIS will be assisted to develop a personal, goal-based plan about how they will be provided with general supports and reasonable and necessary supports.

The NDIS will respect the interests of people with disability in exercising choice and control about matters that affect them.

National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016

These Rules are made for the purposes of sections 33 and 35, and sections 70, 72 and 73, of the Act.

They are about the funding of Specialist Disability Accommodation (SDA) for participants under the NDIS. SDA is one type of reasonable and necessary support that may be funded for a participant under the NDIS.

These Rules commence on [the day after they are registered].

The Hon. Christian Porter MP
Minister for Social Services

2 March 2017

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Part 1 What these Rules are about

- 1.1 Each participant in the NDIS will have a plan, prepared in conjunction with the participant and approved by the CEO of the Agency. Among other things, a participant's plan sets out the supports that will be funded for the participant.
- 1.2 One of the supports that may be funded for some participants who have an extreme functional impairment or very high support needs is SDA. SDA refers to accommodation for people who require specialist housing solutions, including to assist with the delivery of supports that cater for their extreme functional impairment or very high support needs. SDA does not refer to the support services, but the homes in which these are delivered. SDA may, for example, have specialist designs for people with very high needs or a location or features that make it feasible to provide complex or costly supports for independent living.
- 1.3 These Rules deal with a number of matters relating to the funding of SDA for participants, including who may receive SDA and how it will be provided.
- 1.4 The Act sets out a number of objects for the NDIS. The objects that are particularly relevant to these Rules are the following:
 - (a) supporting the independence and social and economic participation of people with disability;
 - (b) providing reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme launch;
 - (c) enabling people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports;
 - (d) promoting the provision of high quality and innovative supports that enable people with disability to maximise independent lifestyles and full inclusion in the community.
- 1.5 In giving effect to these objects, regard is to be had to the need to ensure the financial sustainability of the NDIS.
- 1.6 The Act also sets out a number of principles for the NDIS. The principles that are particularly relevant to these Rules are the following:
 - (a) people with disability have the same right as other members of Australian society to realise their potential for physical, social, emotional and intellectual development;
 - (b) people with disability should be supported to participate in and contribute to social and economic life to the extent of their ability;

- (c) people with disability and their families and carers should have certainty that people with disability will receive the care and support they need over their lifetime;
- (d) people with disability should be supported to receive reasonable and necessary supports, including early intervention supports;
- (e) reasonable and necessary supports for people with disability should:
 - (i) support people with disability to pursue their goals and maximise their independence;
 - (ii) support people with disability to live independently and to be included in the community as fully participating citizens; and
 - (iii) develop and support the capacity of people with disability to undertake activities that enable them to participate in the community and in employment;
- (f) the role of families, carers and other significant persons in the lives of people with disability is to be acknowledged and respected;
- (g) people with disability should be supported to receive supports outside the NDIS, and be assisted to coordinate these supports with the supports provided under the NDIS.

Part 2 Outline of these Rules

Introduction

- 2.1 Once a person becomes a participant in the NDIS, they develop a plan with the Agency. The plan comprises:
- (a) the **participant's statement of goals and aspirations**, which is prepared by the participant and specifies their goals, objectives, aspirations and circumstances; and
 - (b) the **statement of participant supports**, which is prepared with the participant and approved by the CEO, and sets out, among other matters, the supports that will be provided or funded by the NDIS.
- 2.2 A participant's plan can be reviewed at various stages. The CEO may conduct a review of the plan at the request of a participant, or at any time on the initiative of the CEO. The plan will also state a date by which, or circumstances in which, the plan is to be reviewed.
- 2.3 As part of the process of developing or reviewing a participant's plan, consideration will be given to whether SDA is to be funded for a participant.
- 2.4 These Rules are to be applied in deciding whether to fund SDA for a participant. Among other things, they deal with the criteria for assessing whether SDA may be funded for a participant and for determining the appropriate SDA type (design category and building type) and location for a participant.
- 2.5 However, the CEO will also need to have regard to a range of other matters in the Act in making this decision. For example, in relation to each support to be provided or funded, including SDA, the CEO needs to be satisfied that:
- (a) the support will assist the participant to pursue the goals, objectives and aspirations included in the participant's statement of goals and aspirations;
 - (b) the support will assist the participant to undertake activities, so as to facilitate the participant's social and economic participation;
 - (c) the support represents value for money in that the costs of the support are reasonable, relative both to the benefits achieved and the cost of alternative support;
 - (d) the support will be, or is likely to be, effective and beneficial for the participant, having regard to current good practice;
 - (e) the funding or provision of the support takes account of what it is reasonable to expect families, carers, informal networks and the community to provide; and
 - (f) the support is most appropriately funded or provided through the NDIS, and is not more appropriately funded or provided through other general systems

of service delivery or support services offered by a person, agency or body, or systems of service delivery or support services offered:

- (i) as part of a universal service obligation; or
- (ii) in accordance with reasonable adjustments required under a law dealing with discrimination on the basis of disability.

- 2.6 The CEO will also need to apply the *National Disability Insurance Scheme (Supports for Participants) Rules 2013* in deciding whether to approve a statement of participant supports.
- 2.7 SDA included in a participant's plan will be able to be funded for the participant, provided also that a number of other requirements are met, including that the SDA provider is a registered provider of supports and that the dwelling has been enrolled by the provider.
- 2.8 These Rules do not replace or modify any of the other NDIS Rules, except where this is clearly indicated.

Paragraphs 2.1-2.2 summarise aspects of sections 33 and 48 of the Act. Paragraph 2.5 summarises aspects of sections 33 and 34 of the Act.

Outline

- 2.9 **Part 3** sets out the criteria to be applied in deciding whether SDA may be funded for a participant, and the materials that may be used in assessing relevant matters.
- 2.10 **Part 4** deals with the determination of the appropriate SDA type and location for a participant, and of an alternative interim option if accommodation of that type is not available to the participant in that location. It also deals with the situation where a participant is already residing in an SDA dwelling and wishes to continue to reside there for a period of time.
- 2.11 **Part 5** deals with how SDA will be specified in a participant's plan.
- 2.12 **Part 6** deals with other requirements that must be met in order for SDA included in a participant's plan to be funded, including the requirement to enrol SDA dwellings.
- 2.13 **Part 7** deals with the requirement for providers of SDA funded under the NDIS to be registered providers of supports, and additional SDA-specific requirements that apply to them.
- 2.14 **Part 8** provides for other matters, such as how these Rules are to be interpreted.

Part 3 Eligibility for SDA

3.1 SDA may be funded for a participant if:

- (a) consideration has been given to suitable supports and pathways for the participant that would assist the participant either:
 - (i) as an alternative to providing supports that include SDA; or
 - (ii) in combination with SDA (see paragraphs 3.2-3.3); and
- (b) the participant meets the SDA assessment criteria (see paragraphs 3.4-3.8).

Other criteria in the Act and other NDIS rules will also need to be satisfied in order for SDA to be funded for a participant, as indicated in paragraphs 2.5-2.6.

Consideration to be given to suitable supports and pathways

3.2 The CEO is to consider the availability and likely effectiveness of suitable supports and pathways for the participant, either as an alternative to SDA or in combination with SDA, before considering whether the participant meets the SDA assessment criteria. In doing so, the CEO is to have regard to:

- (a) the extent to which suitable supports and pathways have been attempted and their success;
- (b) the extent to which informal supports could be sustained or developed; and
- (c) whether support coordination (see paragraph 4.12) should be funded to explore the availability and viability of suitable supports and pathways.

3.3 For the purposes of paragraph 3.2, suitable supports and pathways may include:

- (a) capacity building supports;
- (b) assistance with daily living;
- (c) home modifications or assistive technologies; or
- (d) life transition planning including mentoring and peer support, focusing on individual skill development.

The consideration of these matters will assist in assessing whether the participant meets the SDA assessment criteria below.

SDA assessment criteria

3.4 A participant meets the SDA assessment criteria if either:

- (a) the participant has an extreme functional impairment and requires an SDA response (see paragraphs 3.5-3.6); or
- (b) the participant has very high support needs most appropriately met by an SDA response (see paragraphs 3.7-3.8).

Extreme functional impairment and requires an SDA response

3.5 A participant has an extreme functional impairment if:

- (a) the impairment results in an extremely reduced functional capacity of the participant to undertake one or more of the activities of mobility, self-care or self-management; and
- (b) the participant has a very high need for person to person supports in undertaking the activity even with assistive technology, equipment or home modifications.

3.6 The participant requires an SDA response if, when compared to other supports alone, combined SDA and other supports:

- (a) would be likely to better assist the participant to pursue the goals, objectives and aspirations in the participant's statement of goals and aspirations;
- (b) would be likely to be more effective and beneficial, having regard to current good practice, including because of the extent to which it would, where possible:
 - (i) mitigate or alleviate the impact of the participant's impairment upon their functional capacity;
 - (ii) prevent the deterioration of their functional capacity;
 - (iii) improve their functional capacity;
 - (iv) maintain or promote the participant's ability to build capacity, including in the medium or long term; or
 - (v) maintain or enhance the participant's opportunities to develop skills;
- (c) would represent better value for money; and
- (d) would promote stability and continuity of supports, particularly for participants currently residing in SDA.

Very high support needs most appropriately met by an SDA response

3.7 A participant has very high support needs if:

- (a) the participant has previously lived in SDA for extended periods, and this has impacted the capacity of the participant to transition to alternative living arrangements and supports; or

- (b) the participant has a very high level need for person to person supports, either immediately available or constant, for a significant part of the day and either:
 - (i) there are limitations in the availability, capacity or capability of the participant's informal support network, or risks to its sustainability; or
 - (ii) the participant is at risk or poses a risk to others, and that risk could be mitigated by the provision of SDA, having particular regard to the participant's response to risk and the interaction of the participant with the environment.

3.8 The very high support needs are most appropriately met by an SDA response if, when compared to other supports alone, combined SDA and other supports:

- (a) would be likely to better assist the participant to pursue the goals, objectives and aspirations in the participant's statement of goals and aspirations;
- (b) would be likely to be more effective and beneficial, having regard to current good practice, because of the extent to which it would, where possible:
 - (i) reduce the participant's future need for supports which might be required due to inappropriate accommodation;
 - (ii) assist the participant to pursue goals related to life opportunities and life transitions;
 - (iii) mitigate or alleviate the impact of the participant's impairment upon their functional capacity;
 - (iv) prevent the deterioration of their functional capacity;
 - (v) improve their functional capacity;
 - (vi) maintain or promote the participant's ability to build capacity, including in the medium or long term; or
 - (vii) maintain or enhance the participant's opportunities to develop skills; and
- (c) would represent better value for money, having regard to:
 - (i) whether combined SDA and other supports would be likely to substantially improve the life stage outcomes for, and be of long-term benefit to, the participant; and
 - (ii) the cost of providing the participant with supports needed to live in accommodation other than SDA, taking into account whether those supports may be shared with few or no other participants and the limitations of the participant's informal support network.

Materials that may be used in assessment

- 3.9 In assessing whether a participant has an extreme functional impairment or very high support needs for the purposes of this Part, the CEO may consider or use any or all of the following:
- (a) any assessment tool specified by the CEO in operational guidelines for this purpose;
 - (b) any assessments conducted in relation to the participant (including any assessments requested by the CEO under section 36 or section 50 of the Act), such as allied health assessments, behaviour assessments and risk assessments;
 - (c) the daily support requirements of the participant including any SDA supports.
- 3.10 Paragraph 3.9 does not limit what may be considered or used by the CEO in making these assessments.

Consideration to be given to whether capacity building supports should be funded before SDA

- 3.11 If a participant is assessed as being eligible for SDA, the CEO is to consider the matter in paragraph 3.12 before proceeding to consider the matters in Part 4.
- 3.12 The CEO is to consider whether capacity building supports should be funded for the participant for a period of time before SDA is funded for the participant, having regard to whether this would:
- (a) enhance the opportunity for a move to accommodation other than SDA, or to lower cost SDA, in particular if intensive capacity building supports were to be funded for the participant during a transition period (for example while they continue to live in their current accommodation);
 - (b) be likely to be more effective and beneficial for the participant, having regard to current good practice; and
 - (c) better enhance the participant's skill development, in particular their independent living skills.

The CEO may still go on to consider the matters in Part 4 if the CEO considers that capacity building supports should be funded for the participant.

The plan will state a date by which, or circumstances in which, the plan is to be reviewed. The CEO may also conduct a review of the plan at the request of a participant, or at any time on the initiative of the CEO.

Part 4 Determining the SDA type and location

- 4.1 Once a participant has been assessed as being eligible for SDA, it is necessary to determine the appropriate SDA type (design category and building type) and location for the participant and, where necessary, an alternative interim option.

In practice, some consideration will have been given to the type of SDA that is appropriate for a participant in the course of assessing the participant's eligibility for SDA. However, a specific determination will need to be made under this Part as to the appropriate SDA type and location for the participant once they have been assessed as being eligible for SDA.

- 4.2 These matters are to be determined as follows:

Step 1

- (a) Determine the appropriate SDA type (design category and building type) and location for the participant, applying paragraphs 4.3-4.9 below. The matters in these paragraphs are to be considered in the context of the overall package of supports for the participant, including having regard to the participant's preferences, goals and aspirations and the total cost of the package of supports.

If the participant currently resides in SDA and wishes to stay there, refer to paragraph 4.11 before proceeding with the further steps below. Paragraph 4.11 may also be considered at a later stage (e.g. at Steps 4 and 5 if the participant would prefer to continue to reside in their current dwelling than in a dwelling that has been identified as an alternative interim option).

Step 2

- (b) Consider whether SDA of the appropriate SDA type and in the appropriate location for the participant is, or will very soon be, available to be provided to the participant as an in-kind support.

If so, then subject to any provision to the contrary in the *National Disability Insurance Scheme (Plan Management) Rules 2013*, the participant's plan is to record:

- (i) the appropriate SDA type and location determined for the participant; and
(ii) that SDA will be provided by the in-kind provider.

Step 2 involves applying the rules in Part 6 of the National Disability Insurance Scheme (Plan Management) Rules 2013 dealing with in-kind supports.

If not, proceed to Step 3.

Step 3

- (c) Consider whether other SDA of the appropriate SDA type and in the appropriate location for the participant is, or will very soon be, available and whether (in respect of at least one vacancy) the participant and the provider are likely to agree to the participant residing there.

If so, the participant's plan is to record the appropriate SDA type and location determined for the participant.

If not, proceed to Step 4.

Step 4

- (d) Consider whether there is SDA of another SDA type or in another location that:
- (i) would be suitable as an alternative interim option; and
 - (ii) is, or will very soon be, available to be provided to the participant as an in-kind support.

If so, then subject to any provision to the contrary in the *National Disability Insurance Scheme (Plan Management) Rules 2013*, the participant's plan is to record:

- (i) the SDA type and location of one of those dwellings, as an alternative interim option; and
- (ii) that SDA will be provided by the in-kind provider.

Step 4 involves applying the rules in Part 6 of the National Disability Insurance Scheme (Plan Management) Rules 2013 dealing with in-kind supports.

If not, proceed to Step 5.

Step 5

- (e) Consider whether there is other SDA (of an SDA type or in a location other than the appropriate SDA type and location determined for the participant) that:
- (i) would be suitable as an alternative interim option; and
 - (ii) is, or will very soon be, available; and

- (iii) the participant and the provider would agree to the participant living in.

If more than one option (meeting (i)-(iii) above) has been identified, make a determination applying paragraph 4.10, and include the SDA type and location of this dwelling in the participant's plan, as an alternative interim option.

If there is only one option, include its SDA type and location in the participant's plan, as an alternative interim option.

The appropriate SDA type and location determined for the participant should also be recorded in the plan (see paragraph 5.8). However, the plan would need to be reviewed before a participant moves from SDA determined as an alternative interim option to a dwelling providing accommodation of the appropriate SDA type and in the appropriate location determined for the participant under Step 1.

- (f) Otherwise, consider support coordination (see paragraph 4.12) and other non-SDA supports for the participant.

Determining the design category

4.3 There are five SDA design categories (which are described in further detail in the NDIS Price Guide):

- (a) **Basic** design, which refers to housing without specialist design features but with a location or other features that cater for the needs of people with disability and assist with the delivery of support services (only funded in limited circumstances—see paragraph 4.4);
- (b) **Improved liveability** design, which refers to housing that has been designed to improve 'liveability' by incorporating a reasonable level of physical access and enhanced provision for people with sensory, intellectual or cognitive impairment;
- (c) **Fully accessible** design, which refers to housing that has been designed to incorporate a high level of physical access provision for people with significant physical impairment;
- (d) **Robust** design, which refers to housing that has been designed to incorporate a high level of physical access provision and to be very resilient, reducing the likelihood of reactive maintenance and reducing the risk to the participant and the community;
- (e) **High physical support** design, which refers to housing that has been designed to incorporate a high level of physical access provision for people with significant physical impairment and requiring very high levels of support.

Dwellings falling within the above categories (other than Basic design) may also fall within the 'Innovation design' category in the NDIS Price Guide if they have additional innovative features or design.

- 4.4 The appropriate design category for a participant is to be determined out of the categories in paragraphs 4.3(b)-4.3(e) by considering the participant's specific needs.

An SDA dwelling in the Basic design category may be determined as an alternative interim option, or for a participant who was already residing in this SDA dwelling before the appropriate SDA type and location was determined for them and who wish to continue to reside there for a period of time (see paragraph 4.11).

Determining the building type

- 4.5 There are five SDA building types (which are described in further detail in the NDIS Price Guide):
- (a) **apartments**, which are self-contained units occupying only part of a larger residential building. Apartments are typically classified as Building Class 2 under the Building Code of Australia;
 - (b) **duplexes, villas and townhouses**, which are separate but semi-attached properties within a single land title or strata titled area. The dwellings will be separated from one or more adjoining dwellings by a fire-resisting wall (although fire resistance is not required for Existing Stock). These may also include ancillary dwellings that are located on the same parcel of land as another dwelling (such as standalone villas or 'granny flats'). These types of buildings are typically classified as Building Class 1(a)(i), 1(a)(ii) or 3 under the Building Code of Australia;
 - (c) **houses**, which are detached low-rise dwellings with garden or courtyard areas. Houses are typically classified as Building Class 1(a)(i), 1(b)(i) or 3 under the Building Code of Australia;
 - (d) **group homes**, which are houses that are enrolled (or will be enrolled) to house four or five long-term residents. Group homes are typically classified as Building Class 1(b)(i) or 3 under the Building Code of Australia;
 - (e) **larger dwellings**, which are enrolled (or will be enrolled) to house more than five long-term residents (only funded in limited circumstances—see paragraphs 4.6, 4.10 and 4.11).
- 4.6 The appropriate building type for a participant is to be determined, out of the building types in paragraphs 4.5(a)-(d), having regard to:

- (a) the participant's preferences, if those preferences are established and align with the participant's statement of goals and aspirations;
- (b) the features of the building type;
- (c) the support model that is most appropriate for the participant including immediately available or constant person to person supports (see paragraph 4.7);
- (d) the participant's support needs; and
- (e) whether the building type would represent value for money in that the costs would be reasonable, relative to both the benefits achieved and the cost of alternatives;

as well as the extent to which the building type would:

- (f) facilitate social and economic participation, in particular how the building type would impact on:
 - (i) the participant's ability to engage in the life of the household and community; and
 - (ii) the dynamics of the household, having regard in particular to the participant's ability to share with others and build relationships;
- (g) facilitate past, established or planned connections or the continuation of established connections, in particular of culture or community;
- (h) increase, reduce or mitigate the risks to the participant and others, having particular regard to the participant's response to risk and the interaction of the participant with the environment;
- (i) improve life stage outcomes for, and be of long-term benefit to, the participant;
- (j) impact on the participant's capacity or capability, in particular, the extent to which a building type would:
 - (i) alleviate the impact of the participant's impairment on their daily functioning;
 - (ii) enhance the participant's skill development, in particular independent living skills;
 - (iii) increase the benefit and effectiveness of supports other than SDA for the participant's skill development, in particular independent living skills; and
 - (iv) enhance the opportunity for a move to accommodation other than SDA, or to lower cost SDA, in particular through a transition period with intensive capacity building supports;
- (k) facilitate or sustain informal supports, and the extent to which informal supports would reduce the cost of other supports;

- (l) facilitate or hinder the provision of other supports required by the participant; and
- (m) facilitate access to other support or specialist services required by the participant which are not funded or provided through the NDIS.

An SDA dwelling that is a larger dwelling (paragraph 4.5(e)) may be determined as an alternative interim option, or for a participant who was already residing in this SDA dwelling before the appropriate SDA type and location was determined for them and who wish to continue to reside there for a period of time (see paragraph 4.11).

4.7 The most appropriate support model for the participant is considered having regard to their support needs. For example:

- (a) if the participant requires immediately available person to person supports but can be left alone for periods of time, the most appropriate support model may be concierge or mobile support;
- (b) if the participant requires constant person to person supports and cannot be left alone for periods of time, the most appropriate support model may be shared onsite support.

The most appropriate support model is not considered by applying these Rules (as it involves supports other than SDA). However, it will be considered pursuant to the Act and other NDIS rules as part of the same process of determining the supports for a participant in developing or reviewing their plan, and will be relevant to determining the appropriate building type for a participant under these Rules.

Determining the location

4.8 The appropriate location for SDA for a participant may be specified as an area, for example a Statistical Area Level 4, or a part of a Statistical Area Level 4.

4.9 The appropriate location for a participant is to be determined having regard to:

- (a) the participant's preference, where that preference is established and aligns with the participant's statement of goals and aspirations, and where the preference is important on the basis of the participant's support needs and on the basis of one or more of the matters mentioned in paragraphs (e) or (f) or paragraphs 4.6(h), (i) or (k)-(m);

- (b) the extent to which the location would be likely to better assist the participant to pursue the goals, objectives and aspirations in the participant's statement of goals and aspirations;
- (c) the features of the location, including the accessibility of community services;
- (d) where the participant lives now and the history of where the participant has lived, including any recent changes;
- (e) the extent to which the location would facilitate past, established or planned connections or the continuation of existing connections, in particular of culture or community;
- (f) the extent to which the location would be likely to facilitate social and economic participation, in particular how the location would impact on the participant's ability to engage in the life of the household and community; and
- (g) whether the location would represent value for money, having regard to the extent to which the location would:
 - (i) facilitate or sustain informal supports, and the extent to which informal supports would reduce the cost of other supports;
 - (ii) facilitate or hinder the provision of other supports required by the participant; and
 - (iii) facilitate access to mainstream supports or specialist services required by the participant.

Alternative interim options

4.10 An alternative interim option is to be determined (where necessary—see paragraph 4.2), out of the alternative interim options that have been identified, taking account of:

- (a) the support needs and preferences of the participant;
- (b) the benefit that it would likely achieve, as compared to the benefit that SDA of the appropriate type and in the appropriate location determined for the participant would likely achieve, as a basis for assessing its value for money; and
- (c) when SDA of the appropriate SDA type in the appropriate location determined for the participant is likely to become available to the participant.

The CEO will also need to have regard to a range of other matters in the Act and other NDIS rules in deciding whether to fund SDA of a particular type and in a particular location as an alternative interim option—see paragraphs 2.5-2.6.

Even if an alternative interim option is determined for a participant, the appropriate SDA type and location determined for the participant (under Step 1) should also be recorded in the plan (see paragraph 5.8). However, the plan would need to be reviewed before a participant moves from SDA determined as an alternative interim option to a dwelling of the appropriate SDA type and in the appropriate location determined for the participant.

Participants already residing in SDA who wish to stay there

4.11 If a participant is:

- (a) currently residing in SDA (whether or not it is of the appropriate SDA type or in the appropriate location determined for the participant under paragraphs 4.3-4.9) because:
 - (i) the participant was residing there before any determination was made under this Part in relation to the participant; or
 - (ii) the participant moved there in accordance with an earlier determination under this Part; and
- (b) the participant wishes to continue to reside there for a period of time;

then the dwelling in which the participant currently resides may be determined for the participant so that the participant can continue to reside there.

The CEO will also need to have regard to a range of other matters in the Act and other NDIS rules in deciding whether to fund this SDA —see paragraphs 2.5-2.6.

Even if a current SDA dwelling is determined for a participant, the appropriate SDA type and location determined for the participant (under Step 1) should also be recorded in the plan (see paragraph 5.8). However, the plan would need to be reviewed before a participant moves from their current SDA to a dwelling of the appropriate SDA type and in the appropriate location determined for the participant.

Support coordination

4.12 The CEO will consider whether support coordination is required to assist the participant in:

- (a) clarifying their need for SDA or the appropriate SDA type and location for the participant;

- (b) ascertaining the availability of the appropriate SDA type at the appropriate location determined for the participant;
- (c) considering other options, such as other SDA types or locations, or other supports (such as assistance with daily living or supports that assist participants to develop independent living skills), for example where the appropriate SDA type determined for the participant is unavailable at the appropriate location determined for the participant; or
- (d) negotiating, entering into or managing an agreement with a registered provider in relation to SDA or moving into a dwelling.

The CEO will not consider whether support coordination is required by applying these Rules (as support coordination is a support other than SDA). However, this will be considered pursuant to the Act and other NDIS rules as part of the same process of determining the supports for a participant in developing or reviewing their plan.

Part 5 Specifying SDA in a participant's plan

- 5.1 The *National Disability Insurance Scheme (Plan Management) Rules 2013* deal with a number of matters relating to a participant's plan, including how supports in a participant's plan are to be specified and the circumstances in which the provider of the support will also be specified.
- 5.2 This Part sets out additional matters that apply specifically in relation to the specification of SDA and SDA providers in a participant's plan.

Describing the SDA

- 5.3 SDA is to be specified in a participant's plan by reference to its SDA type and location. Other features, allowances or factors may also be specified.
- 5.4 The amounts that will be funded by the NDIS for particular SDA types and locations, and for other features, allowances or factors (where all relevant requirements are met—see Part 6), are the relevant amounts set out in the NDIS Price Guide or, in the case of Legacy Stock (see paragraph 6.13), the Legacy Stock Price List.
- 5.5 These amounts may be adjusted from time to time, both annually and following periodic reviews. In the case of Legacy Stock, the amounts will be reduced over time.
- 5.6 The amount that may be funded by the NDIS for particular SDA dwellings may in some cases be zero.
- 5.7 The specification in the participant's plan of a particular SDA type and location does not:
- (a) prevent the participant from being required to make reasonable rent contributions (RRC), which must not exceed the amount specified in the Agency's terms of business; or
 - (b) prevent the participant from making discretionary rent contributions to either:
 - (i) access a higher cost SDA type or location than that specified in the participant's plan; or
 - (ii) access a particular SDA dwelling where its market rental value is higher than the relevant amount referred to in paragraph 5.4 plus RRC (which would only be in exceptional circumstances and where the requirements in paragraphs 7.30 and 7.31 are met).
- 5.8 If a participant's plan specifies SDA determined as an alternative interim option, or a participant's current SDA dwelling determined under paragraph 4.11, the plan should still record (as an annotation, rather than as a reasonable and

necessary support to be funded) the SDA of the appropriate type and in the appropriate location determined for the participant under paragraphs 4.3-4.9.

Specifying the provider or dwelling

- 5.9 Without limiting the operation of the *National Disability Insurance Scheme (Plan Management) Rules 2013*, a participant's plan may specify one or both of the following:
- (a) which registered provider, or category of registered providers, is to provide SDA funded for a participant;
 - (b) the SDA dwelling that will be funded for the participant.

Interaction with National Disability Insurance Scheme (Plan Management) Rules 2013

- 5.10 These Rules do not limit the *National Disability Insurance Scheme (Plan Management) Rules 2013*. For example, the rules dealing with in-kind supports in Part 6 of those Rules will apply in relation to SDA in the way set out in paragraph 4.2.
- 5.11 However, where a specific SDA dwelling is determined for a participant under paragraph 4.11 (participants already residing in SDA who wish to stay there), nothing in the *National Disability Insurance Scheme (Plan Management) Rules 2013*:
- (a) allows the CEO to specify that SDA will be provided to the participant by a provider of supports that is a different provider to the registered provider of the specific SDA dwelling determined for the participant; or
 - (b) requires that a provider be recorded in the participant's plan that is a different provider to the registered provider of that SDA dwelling determined for the participant.

Part 6 Requirements for SDA to be funded

- 6.1 The following requirements must be satisfied in order for SDA specified in a participant's plan to be funded under the NDIS:
- (a) the provider of the SDA is a registered provider (see Part 7);
 - (b) the participant resides in the dwelling, or in a dwelling providing accommodation of the type and in the location (or of a higher-cost type or in a higher-cost location in accordance with paragraph 5.7(b)), specified in their plan (see paragraphs 6.2-6.4);
 - (c) the parent or parents of the participant do not reside in the dwelling;
 - (d) at least one private bedroom has been made available for the participant or, if the participant is a member of a couple, at least one private bedroom and a second room that may be a bedroom or another similar sized private room has been made available to the couple;
 - (e) the dwelling is eligible to be enrolled, has been enrolled and continues to be enrolled (see paragraphs 6.5-6.13);
 - (f) the number of bedrooms and similar sized private rooms in the dwelling is at least equal to the number of residents for which it is enrolled; and
 - (g) if:
 - (i) the dwelling is a New Build or Existing Stock referred to in paragraph 6.12; and
 - (ii) the density restriction applies in relation to the dwelling, under paragraph 6.14;
—the density restriction for the relevant parcel of land was satisfied immediately after the person began to reside in the dwelling.

The participant resides in the dwelling

- 6.2 SDA will only be funded in relation to periods when the participant resides in the dwelling.

Funding for additional period in certain circumstances when vacancy arises

- 6.3 Paragraph 6.4 applies if:
- (a) the SDA dwelling for the participant is enrolled to house two to five residents;
 - (b) the participant:
 - (i) dies;
 - (ii) gives notice that he or she will vacate the dwelling;

- (iii) is given a notice to vacate because of behaviour that might represent a risk to other residents, to staff or to the participant; or
 - (iv) vacates the dwelling without giving notice or having been given a notice to vacate; and
- (c) the vacancy is available for a participant and the Agency has been notified.

6.4 The participant will be taken to reside in the dwelling until:

- (a) the vacancy is filled; or
- (b) for a dwelling that is enrolled to house four or five residents—90 days after the day of the event mentioned in paragraph 6.3(b); or
- (c) for a dwelling that is enrolled to house two or three residents—60 days after the day of the event mentioned in paragraph 6.3(b);

whichever is earlier.

Enrolment of dwellings

6.5 A registered provider may enrol a dwelling, if it is eligible to be enrolled (see paragraph 6.6), in the manner (if any) specified by the CEO.

<p><i>Registered providers are required to keep these enrolments up to date—see paragraph 7.21.</i></p>

6.6 A dwelling is eligible to be enrolled only if:

- (a) it meets the minimum conditions (see paragraphs 6.8-6.9);
- (b) it is either a New Build (see paragraph 6.10), Existing Stock (see paragraphs 6.11-6.12) or Legacy Stock (see paragraph 6.13);
- (c) if:
 - (i) the dwelling is a New Build or Existing Stock referred to in paragraph 6.12; and
 - (ii) the density restriction applies in relation to the dwelling, under paragraph 6.14;
—the density restriction for the relevant parcel of land is satisfied immediately before the enrolment;
- (d) the registered provider holds any written certification that may be required by the CEO, from any person or entity and in any form required by the CEO, relating to:
 - (i) the dwelling's compliance with the requirements in these Rules or the NDIS Price Guide for the relevant SDA type;
 - (ii) its location; or

- (iii) other features, allowances or factors (such as on-site overnight assistance rooms or fire sprinklers); and
- (e) the registered provider holds a certification to the effect that the dwelling meets relevant building codes and laws:
 - (i) in the case of dwellings owned or operated by a State or Territory Government—from either a building authority determined by the CEO (or, in the absence of such a determination, any appropriately authorised building authority), or from the relevant State or Territory government department responsible for disability or housing; or
 - (ii) in the case of other dwellings—from a building authority determined by the CEO or, in the absence of such a determination, any appropriately authorised building authority.

6.7 In the case of dwellings owned or operated by a State or Territory Government, paragraph 6.6(e)(i) does not require a registered provider to obtain a further certification as to compliance with relevant building codes and laws if such a certification has been issued by the State or Territory Government or other appropriate authority in the three years prior to enrolment.

Minimum conditions

6.8 A dwelling meets the minimum conditions if:

- (a) it is a permanent dwelling (for example, not a mobile home);
- (b) it is intended to provide long-term accommodation for at least one participant (for example, is not used only for respite, emergency or temporary accommodation); and
- (c) neither the Commonwealth nor a State or Territory currently provides funding for accommodation in respect of the dwelling under a scheme unrelated to disability (such funding may still be provided to residents of the dwelling).

6.9 However, the dwelling does not meet the minimum conditions if:

- (a) the NDIS has funded, as 'complex home modifications', home modifications for the dwelling at any time after 1 December 2016 and less than 10 years before the day of the enrolment of the dwelling; or
- (b) the NDIS has funded, as home modifications other than 'complex home modifications', home modifications for the dwelling at any time after 1 December 2016 and less than 5 years before the day of the enrolment of the dwelling.

New Builds

6.10 A dwelling is a New Build if:

- (a) a certificate of occupancy (or equivalent) was either:
 - (i) first issued in relation to it on or after 1 April 2016; or
 - (ii) issued in relation to it on or after 1 April 2016 following renovations or refurbishments resulting in the dwelling meeting the Minimum Requirements in the NDIS Price Guide for one or more of the design categories mentioned in paragraph 4.3 other than Basic design, and where the cost of the refurbishment was greater than the cost set out in the costs schedule published by the Agency for this purpose;
- (b) either:
 - (i) it is enrolled or will be enrolled to house five or fewer long-term residents (excluding support staff); or
 - (ii) it is the home of a participant who intends to provide SDA to themselves (as a registered provider) and to reside there with, and only with, the participant's spouse or de facto partner and children; and
- (c) all its shared areas and the majority of its bedrooms and similar sized private rooms comply with the Minimum Requirements in the NDIS Price Guide for a design category mentioned in paragraph 4.3 other than Basic design.

Paragraph 6.10(b)(ii) ensures that a participant with a large family (e.g. a partner and more than three children) can enrol their own home to house more than five long-term residents if the other criteria for New Builds are met.

Existing Stock

6.11 A dwelling that is not a New Build is Existing Stock if:

- (a) it does not have a certificate of occupancy issued as described in paragraph 6.10(a);
- (b) it is enrolled or will be enrolled to house five or fewer long-term residents (excluding support staff);
- (c) it has been, at some time between 1 July 2013 and 1 December 2016, primarily used as accommodation for people with disability who have an extreme functional impairment or very high support needs;
- (d) it is not an aged care, health care or other facility that is not specifically intended for use as disability accommodation;
- (e) it housed at least one resident who received disability related supported accommodation (or equivalent) payments from a State, Territory or Commonwealth Government at some time between 1 July 2013 and 1 December 2016; and

- (f) all its shared areas and the majority of its bedrooms and similar sized private rooms comply or substantially comply with the Minimum Requirements in the NDIS Price Guide (if any) for a design category mentioned in paragraph 4.3.

6.12 A dwelling that is not a New Build is also Existing Stock if:

- (a) it does not have a certificate of occupancy issued as described in paragraph 6.10(a);
- (b) either:
 - (i) it is enrolled or will be enrolled to house five or fewer long-term residents (excluding support staff); or
 - (ii) it is the home of a participant who intends to provide SDA to themselves (as a registered provider) and to reside there with, and only with, the participant's spouse or de facto partner and children; and
- (c) all its shared areas and the majority of its bedrooms and similar sized private rooms comply with the Minimum Requirements in the NDIS Price Guide for a design category mentioned in paragraph 4.3 other than Basic design.

Legacy Stock

6.13 A dwelling is that is not a New Build is Legacy Stock if:

- (a) it does not have a certificate of occupancy issued as described in paragraph 6.10(a);
- (b) it is enrolled or will be enrolled to house more than five long-term residents (excluding support staff);
- (c) it has been, at some time between 1 July 2013 and 1 December 2016, primarily used as accommodation for people with disability who have an extreme functional impairment or very high support needs;
- (d) it housed at least one resident who received disability related supported accommodation (or equivalent) payments from a State, Territory or Commonwealth Government at some time between 1 July 2013 and 1 December 2016;
- (e) it is not an aged care, health care or other facility that is not specifically intended for use as disability accommodation; and
- (f) all its shared areas and the majority of its bedrooms and similar sized private rooms comply or substantially comply with the Minimum Requirements in the NDIS Price Guide (if any) for a design category mentioned in paragraph 4.3.

A larger dwelling that is capable of housing more than five long-term residents (excluding support staff) can be enrolled to house five or fewer long-term residents (excluding support staff) so as to potentially meet the criteria for Existing Stock.

Density restriction

- 6.14 The density restriction applies in relation to a single parcel of land with multiple dwellings (whether or not they all provide SDA) that includes a dwelling that is:
- (a) a New Build; or
 - (b) Existing Stock referred to in paragraph 6.12.
- 6.15 If any of the dwellings on the parcel of land is enrolled to house three or more residents, then the density restriction is satisfied if the number of participants with SDA in their plan who reside in a dwelling on the parcel and receive SDA funding is no more than the greater of:
- (a) 10; and
 - (b) 10% of the total number of residents capable of residing on the parcel, assuming one resident per bedroom.
- 6.16 If all of the dwellings that are enrolled on the parcel are enrolled to house only one or two residents per dwelling, then the density restriction is satisfied if the number of participants with SDA in their plan who reside in a dwelling on the parcel and receive SDA funding is no more than the greater of:
- (a) 15; and
 - (b) 15% of the total number of residents capable of residing on the parcel, assuming one resident per bedroom.
- 6.17 In the case of intentional communities:
- (a) if any of the dwellings on the parcel of land is enrolled to house three or more residents, then the density restriction is satisfied if the number of participants with SDA in their plan who reside in a dwelling on the parcel and receive SDA funding is no more than the greater of:
 - (i) 10; and
 - (ii) 10% of the total number of residents capable of residing on the parcel, assuming one resident per bedroom;
 - (b) if all of the dwellings that are enrolled on the parcel are enrolled to house only one or two residents per dwelling, then the density restriction is satisfied if the number of participants with SDA in their plan who reside in a dwelling on the parcel and receive funding is no more than the greater of:

- (i) 15; and
- (ii) 25% of the total number of residents capable of residing on the parcel, assuming one resident per bedroom.

Information required to enrol

6.18 The CEO may require that the enrolment of a dwelling be accompanied by any or all of the following:

- (a) any information that the CEO requires, which may include:
 - (i) the SDA type of the dwelling and its location;
 - (ii) whether the dwelling is a New Build, Existing Stock or Legacy Stock;
 - (iii) whether the dwelling is a New Build, or Existing Stock referred to in paragraph 6.12, that is one of a number of dwellings on a single parcel of land;
 - (iv) the number of bedrooms and similar sized private rooms suitable for residents;
 - (v) the number of residents for which the dwelling is being enrolled;
 - (vi) the number of participants with SDA in their plan intended to reside in the dwelling (which may be lower than the number of residents for which the dwelling is being enrolled); and
 - (vii) whether the provider is a participant who intends to provide SDA to themselves; and
- (b) a written acknowledgment provided by the owner of the dwelling as referred to in paragraph 7.18, where relevant;
- (c) a declaration relating to compliance with the Minimum Requirements in the NDIS Price Guide for the relevant SDA design category, in the form (if any) specified by the CEO and accompanied by any document required by the CEO (such as a written certification referred to in paragraph 6.6(d));
- (d) a declaration that the provider holds a certification to the effect that the dwelling meets relevant building codes and laws (as referred to in paragraph 6.6(e));
- (e) a declaration that the provider has suitable capacity and experience to provide the SDA dwelling;
- (f) a declaration that:
 - (i) the NDIS has not funded, as 'complex home modifications', home modifications for the dwelling at any time after 1 December 2016 and less than ten years before the day of its enrolment; and
 - (ii) the NDIS has not funded, as home modifications other than 'complex home modifications', home modifications for the dwelling at any time

after 1 December and less than five years before the day of its enrolment;

- (g) any other certification in relation to the dwelling provided by the registered provider, in the form (if any), and containing any information, required by the CEO;
- (h) any other certification in relation to the dwelling provided by any third person specified by the CEO, and in the form (if any), and containing any information, required by the CEO.

Registered providers are required to ensure that the information provided in enrolling a dwelling is accurate and correct – see paragraph 7.20.

Part 7 Registration of SDA providers

Introduction

- 7.1 A person or entity can apply to be a registered provider of supports under section 69 of the Act. Applications are made to the CEO of the Agency and are to be in the form approved by the CEO and accompanied by any information or documents that the CEO requires.
- 7.2 The CEO must approve a person or entity as a registered provider of supports under section 70 of the Act if certain criteria are met, including criteria specified in NDIS rules.
- 7.3 The *National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013* set out criteria that an applicant must meet in order to be approved as a registered provider of supports under section 70 of the Act.
- 7.4 Those Rules also set out requirements with which registered providers are to comply, and certain circumstances in which a provider's approval as a registered provider of supports can be revoked.
- 7.5 This Part sets out additional criteria and requirements specific to the provision of SDA, and deals with the consequences of failing to meet these criteria and requirements.

Requirement for SDA providers to be registered

- 7.6 To provide SDA funded under the NDIS, a provider must be a registered provider of supports (whose approval as a registered provider of supports is not limited to particular classes of supports that do not include SDA).

A person or entity intending to provide SDA funded under the NDIS that is not already a registered provider of supports will need to apply for registration under section 69 of the Act. Various approval criteria are set out in the Act and the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013, as well as in paragraphs 7.7-7.9 below.

A person or entity intending to provide SDA funded under the NDIS that is already approved as a registered provider of supports will not need to re-apply for registration unless their approval as a registered provider of supports is limited to particular classes of supports.

Additional criteria for approval as a registered provider of supports

- 7.7 The applicant must (if intending to provide SDA) declare that it complies with, and has mechanisms in place to ensure ongoing compliance with, all laws, including building standards and tenancy laws, that apply in relation to SDA that may be provided.
- 7.8 The applicant must (if intending to provide SDA) declare that it has mechanisms in place to ensure that any employees, contractors or other persons engaged by the provider in relation to SDA that may be provided, such as tenancy managers, comply with all laws, including building standards and tenancy laws, that apply in relation to the SDA.
- 7.9 The applicant must (if intending to provide SDA) declare that it will not house more residents in an SDA dwelling than the number for which the dwelling is enrolled under Part 6.

These criteria are additional to those set out in Part 3 of the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013, which apply to all applicants for approval as registered providers.

Existing registered providers must also make the above declarations

- 7.10 A person or entity intending to provide SDA that is already approved as a registered provider of supports (and that was not required to make the declarations in paragraphs 7.7-7.9 at the time they applied for approval) is to make those declarations (in the manner and form specified by the CEO, if any) before enrolling any dwellings under Part 6.

Additional requirements for registered providers providing SDA

- 7.11 A registered provider must comply with the following requirements if they provide SDA.

These requirements are additional to those set out in Part 4 of the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013, which apply to all registered providers.

Agreement with participant

- 7.12 The registered provider must not provide SDA for a participant unless either:
- (a) a written service agreement has been entered into between the provider and the participant in relation to the provision of the SDA; or

- (b) the provider:
- (i) has worked with the participant to establish a written service agreement in relation to the provision of SDA;
 - (ii) has provided a copy of the proposed agreement to the participant; and
 - (iii) provides SDA to the participant in accordance with the terms of the proposed agreement.

7.13 Paragraph 7.12 does not apply if the registered provider is a participant providing SDA to themselves.

7.14 The written service agreement (or proposed agreement) must contain the matters set out in the Agency's terms of business.

Providers are required to declare their agreement to be bound by the Agency's terms of business, as in force from time to time, when applying for approval as a registered provider of supports—see paragraph 3.8 of the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013.

7.15 The registered provider must comply with the terms required to be in the written service agreement (or proposed agreement), as set out in the Agency's terms of business, even if they are not included in the agreement.

Compliance with laws

7.16 The registered provider must comply with, and have mechanisms in place to ensure ongoing compliance with, all laws, including building standards and tenancy laws, that apply in relation to the SDA provided.

7.17 The registered provider must have mechanisms in place to ensure that any employees, contractors or other persons engaged by the provider in relation to the SDA provided, such as tenancy managers, comply with all laws, including building standards and tenancy laws, applicable in relation to the SDA provided.

Enrolment of dwellings

7.18 The registered provider must not enrol a dwelling that is not owned by the registered provider unless the owner of the dwelling has acknowledged in writing that the dwelling is to be enrolled as SDA and that the owner has not separately enrolled the dwelling as SDA.

7.19 The registered provider must not enrol a dwelling to house more residents than the number of bedrooms or similar sized private rooms in the dwelling.

- 7.20 The registered provider must, when enrolling dwellings under paragraph 6.5, ensure that all information provided, including in relation to the dwelling's SDA type and its compliance with the Minimum Requirements in the NDIS Price Guide for that type, is accurate and correct.
- 7.21 The registered provider must, within five working days, update or cancel the enrolment of a dwelling (in the manner, if any, specified by the CEO) if there is a change in the dwelling's design category or building type, or if the dwelling is no longer suitable to be used as SDA.
- 7.22 The registered provider must, within five working days, cancel the enrolment of a dwelling (in the manner, if any, specified by the CEO) if:
- (a) the dwelling is a New Build or Existing Stock referred to in paragraph 6.12; and
 - (b) the density restriction applies in relation to the dwelling, under paragraph 6.14; and
 - (c) the dwelling does not currently house a participant with SDA in their plan who receives SDA funding; and
 - (d) the CEO notifies the provider that the density restriction for the relevant parcel of land would no longer be satisfied if another participant were to reside in a relevant dwelling on the parcel.
- 7.23 The registered provider must notify the Agency if there are circumstances that are likely to change the design category, building type or the suitability of a dwelling they have enrolled for providing SDA.
- 7.24 The registered provider must make an annual attestation (in the manner and form, if any, and including any content, specified by the CEO) to the effect that dwellings enrolled by the provider are in a good state of repair and are being appropriately maintained, having regard to the safety, security and privacy of residents.

Housing residents

- 7.25 The registered provider must ensure that no more residents are housed in an SDA dwelling than the number for which the dwelling is enrolled.
- 7.26 In the case of dwellings that are enrolled to house more than five long-term residents on the basis that the provider is a participant providing SDA to themselves (in accordance with paragraph 6.10(b)(ii) or 6.12(b)(ii)), the provider must not house any resident in the dwelling other than the participant's spouse or de facto partner and children.
- 7.27 The registered provider must consider the views of all participants (if any) already residing in an SDA dwelling before housing another participant in that dwelling.

Access to providers of other supports

7.28 The registered provider must allow access to providers of other supports to participants residing in the SDA they provide.

Notifications and attestations

7.29 The registered provider must notify the Agency if:

- (a) a participant gives notice of termination of their occupancy;
- (b) the provider gives notice to vacate to a participant; or
- (c) a vacancy arises that is available to be filled by a participant;

as soon as possible, and within five working days of any of those events occurring.

7.30 The registered provider must notify the Agency if the provider proposes to charge rent that exceeds the amount to be funded by the Agency plus the reasonable rent contributions payable by the participant (as described in the Agency's terms of business).

7.31 The provider must not charge an amount of rent exceeding the amount referred to in paragraph 7.30 unless the notification referred to in that paragraph has been provided and is accompanied by any attestation required by the CEO (which may be to the effect that the provider has obtained a certification from an appropriately qualified property valuer stating that the rent is fair and reasonable).

Other requirements in Agency's terms of business

7.32 The Agency's terms of business may specify any other requirements with which registered providers must comply if they provide SDA.

All registered providers will have declared their agreement to be bound by the Agency's terms of business (as in force from time to time) as part of their application for registration: see paragraph 3.8 of the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013.

Revocation of approval

7.33 The CEO may revoke the approval of a person or entity as a registered provider of supports if:

- (a) the provider contravenes a requirement in this Part; and
- (b) that circumstance presents an unreasonable risk to one or more participants.

There are also other circumstances set out in the Act and the National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013 in which a registered provider's approval may be revoked.

Part 8 Other matters

Citation

- 8.1 These Rules may be cited as the *National Disability Insurance Scheme (Specialist Disability Accommodation) Rules 2016*.

Interpretation

- 8.2 These Rules include text that summarises provisions of the Act. The boxed notes identify such text, which does not form an operative part of these Rules.
- 8.3 Terms and expressions that are used in the Act have the same meaning in these Rules unless these Rules display a contrary intention—see the *Acts Interpretation Act 1901* and the *Legislation Act 2003*, which include definitions and rules of interpretation that apply to all Commonwealth legislation. For convenience, the more important definitions from the Act are identified or reproduced in paragraph 8.4.
- 8.4 In these Rules:

Act means the *National Disability Insurance Scheme Act 2013*.

Agency—see section 9 of the Act.

alternative interim option—see paragraph 4.2.

appropriate SDA type for a participant is the SDA type determined for the participant as part of Step 1 in paragraph 4.2(a), applying paragraphs 4.3-4.9.

appropriate location for SDA for a participant is the location determined for the participant as part of Step 1 in paragraph 4.2(a), applying paragraphs 4.8-4.9.

CEO—see section 9 of the Act.

child of a participant means:

- (a) a natural child of the participant;
- (b) an adoptive child of the participant;
- (c) a step-child of the participant;
- (d) a foster child of the participant;
- (e) a child in relation to whom the participant has parental responsibility (within the meaning of section 75 of the Act);
- (f) a child (as defined in paragraphs (a)-(e) above) of the participant's spouse or de facto partner; or

- (g) a person aged 18 or over who was at some time a child of the participant as defined in paragraphs (a)-(f).

intentional community means a residential community designed to have a high degree of social cohesion, achieved through teamwork and agreed shared values. The members of an intention community have chosen to live together based on common social values and have committed to the principle of mutual support. An intentional community:

- (a) has a defined and explicit agreement under which residents have agreed to live in accordance with shared common values, including the principle of mutual support;
- (b) is controlled by the members or residents and is not governed by a single entity such as a support provider; and
- (c) includes general market housing, and is not solely designed to provide supported accommodation services.

Legacy Stock Price List means the Legacy Stock Price List prepared by the Agency, as in force from time to time.

NDIS means the National Disability Insurance Scheme (see section 9 of the Act).

NDIS Price Guide means the NDIS Price Guide published by the Agency, as in force from time to time.

NDIS rules means the National Disability Insurance Scheme rules (see section 9 of the Act).

parent of a participant means:

- (a) a natural parent of the participant;
- (b) an adoptive parent of the participant;
- (c) a step-parent of the participant;
- (d) a foster parent or carer of the participant;
- (e) a person who has parental responsibility (within the meaning of section 75 of the Act) for the participant (if they are a child);
- (f) a spouse or de facto partner of a person referred to in paragraphs (a)-(e);
or
- (g) a person who has at some time been a parent of the participant as defined in paragraphs (a)-(f).

participant—see section 9 of the Act.

participant's statement of goals and aspirations—see section 9 of the Act.

SDA means accommodation for people who require specialist housing solutions, including to assist with the delivery of supports that cater for their extreme functional impairment or very high support needs (see paragraph 1.2).

SDA building type means one of the building types mentioned in paragraph 4.5.

SDA design category means one of the design categories mentioned in paragraph 4.3.

SDA type means SDA design category and SDA building type.

single parcel of land means:

- (a) for land located in the Australian Capital Territory, all the land comprised within a parcel of land for which a certificate of title has been issued under the *Land Titles Act 1925* (ACT) unless the land forms part of:
- (i) a 'parcel' within the meaning of section 5 of the *Unit Titles Act 2001* (ACT); or
 - (ii) a 'community title scheme' as that term is defined for the *Community Title Act 2001* (ACT);
- in which case 'parcel of land' means all of the land comprised within that arrangement;
- (b) for land located in New South Wales, all the land comprised in a 'folio of the Register' within the meaning of the *Real Property Act 1900* (NSW) unless the land forms part of:
- (i) a 'parcel' within the meaning of section 5 of the *Strata Schemes (Freehold Development) Act 1973* (NSW);
 - (ii) a 'parcel' within the meaning of section 4 of the *Strata Scheme (Leasehold Development) Act 1986* (NSW);
 - (iii) a 'parcel' within the meaning of section 4 of the *Strata Schemes Development Act 2015* (NSW); or
 - (iv) a 'community parcel', 'neighbourhood parcel' or 'precinct parcel' within the meaning of section 3 of the *Community Land Development Act 1989* (NSW);
- in which case 'parcel of land' means all the land comprised within that arrangement;
- (c) for land located in the Northern Territory, all of the land comprised within a 'lot' within the meaning of section 4 of the *Land Title Act* (NT), unless the land forms part of a 'unit titles scheme' within the meaning of section 10(1) of the *Unit Title Schemes Act* (NT), in which case 'parcel of land' means all of the land comprised within that arrangement;

- (d) for land located in Queensland, all the land comprised within a ‘lot’ within the meaning of the *Land Title Act 1994* (Qld) unless the land forms part of:
- (i) a ‘mixed use scheme’ within the meaning of section 3 of the *Mixed Use Development Act 1993* (Qld);
 - (ii) a ‘building units plan’ or a ‘group titles plan’ within the meaning of section 7 of the *Building Units and Group Titles Act 1980* (Qld); or
 - (iii) a ‘community titles scheme’ within the meaning of section 10 of the *Body Corporate and Community Management Act 1997* (Qld);

in which case ‘parcel of land’ means all of the land comprised in that arrangement;

- (e) for land located in Tasmania, all of the land comprised within a ‘folio of the Register’ as that term is used in the *Land Titles Act 1980* (Tas) unless the land forms part of a ‘scheme’ within the meaning of section 3 of the *Strata Titles Act 1998* (Tas), in which case ‘parcel of land’ means all of the land comprised within that arrangement;
- (f) for land located in South Australia, all of the land comprised within an ‘allotment’ within the meaning of section 223LA(1)(a) of the *Real Property Act 1886* (SA) unless the land forms part of a ‘strata plan’ within the meaning of section 5 of the *Strata Titles Act 1988* (SA), in which case ‘parcel of land’ means all of the land comprised within that arrangement;
- (g) for land located in Victoria, all of the land comprised within a ‘folio of the Register’ within the meaning of the *Transfer of Land Act 1958* (Vic) unless it forms part of a ‘registered plan’ within the meaning of section 3(1) of the *Subdivision Act 1988* (Vic), in which case ‘parcel of land’ means all of the land comprised within that arrangement; and
- (h) for land located in Western Australia, all of the land comprised within a certificate of title registered under the *Transfer of Land Act 1892* (WA), unless the land forms part of a registered ‘strata/survey-strata plan’ within the meaning of section 3 of the *Strata Titles Act 1985* (WA), in which case ‘parcel of land’ means all of the land comprised within that arrangement.

statement of participant supports—see section 9 of the Act.

Statistical Area Level 4 means an area designated by the Australian Bureau of Statistics as a Statistical Area Level 4 as mentioned in the Australian Statistical Geography Standard.