**Office of the Treasurer and Minister for Trade**  
**Ministerial Correspondence Action Sheet**

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**ACTION**  
*One option must be selected:*

- [ ] NO FURTHER ACTION REQUIRED
- [ ] RESPONSE REQUIRED
  - [ ] Reply from Treasurer
  - [ ] Reply from Assistant Minister
  - [ ] Reply from Chief of Staff
  - [ ] Reply from Under Treasurer
  - [ ] Acknowledgment letter
  - [ ] Referral to another agency (CoS to CoS):

- [ ] FOR INFORMATION
- [ ] FURTHER ACTION REQUIRED
  - [ ] Briefing Note
  - [ ] Other:

**Copy to:**

**Additional Comments:**

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**Office of the Treasurer**  
**18 SEP 2012**  
**UNDER TREASURER**

**Policy Advisor:** Gerard Benedict  
**Noted by:**  
**Date:** 18/19/2012

**Department Use Only:**

**Keyword:** NDIS

**Notes:**

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**RTI RELEASE**

**RTI Document No.128**
Dear Mr Tayler

Thank you for your letter of 6 August 2012 about the Australian Lawyers Alliance’s (ALA) concerns with the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS) proposed by the Productivity Commission. I apologise for the delay in responding.

I understand you have also written to my Cabinet colleagues, the Honourable Tim Nicholls MP, Treasurer and Minister for Trade, and the Honourable Tracy Davis MP, Minister for Communities, Child Safety and Disability Services.

NDIS

Like the ALA, the Queensland Government strongly supports Queenslanders with a disability, their families and their carers having better access to real long-term care and support. The Government believes that an NDIS as envisaged by the Productivity Commission will deliver real improvements and wants to work with the Federal Government and other states and territories to turn the Productivity Commission’s vision into a reality.

However, the Government also recognises that many stakeholders have significant concerns about some aspects of the scheme proposed by the Productivity Commission, and agrees that much more work needs to be done before an NDIS is implemented.

B/C The Honourable the Treasurer and Minister for Trade.

By direction. For your information.
Copy of inwards correspondence is attached.

CAMPBELL NEWMAN
While Queensland remains committed to participating in a fully developed and sustainable NDIS in the longer-term, we do not want to be part of a scheme that has been rushed, that has not been properly thought through, and that fails to deliver better outcomes for people with a disability, their families and their carers. Nor do we want a scheme that cannot be financially sustained in the longer-term and which will end up leaving a lot of people disappointed. Most importantly, this Government will not put at risk the support it provides to thousands of Queenslanders living with a disability by signing up to a deal without knowing the details first.

Queensland continues to be actively engaged in the ongoing negotiations around scheme design and I have asked Minister Davis to ensure your concerns are considered as part of future deliberations. The Government will also be closely watching the trial sites to apply lessons learnt from these trials to our current system and the broader NDIS scheme in the future.

NIIS
Queensland is also actively participating in national discussions on an NIIS. Throughout these discussions, the Queensland Government has repeatedly expressed its concerns about the additional funding required to implement an NIIS, given the cost of living pressures already being experienced by Queensland families. Just to fund the first stage of an NIIS – for catastrophic injuries sustained through motor vehicle accidents – would require considerable increases to compulsory third party premiums. For the wider NIIS – general injury and medical injury – other appropriate funding sources would need to be identified.

While there has been no agreement to implement such a scheme to date, a number of possible design options are under consideration by the Standing Council on Federal Financial Relations, which could have implications for the scheme’s cost effectiveness in delivering outcomes for injured people over their lifetime. I have asked Minister Nicholls, as Queensland’s representative on the Standing Council, to ensure the issues identified in your letter are considered as part of future discussions.

While I am interested in learning more about your concerns, unfortunately I am unable to meet you at this time due to my heavy work schedule. However, Ms Kate Johnson, Senior Policy Advisor, from my Office would be happy to meet with you. Ms Johnson can be contacted on telephone (07) 3224 4500.

Again, thank you for bringing your views to my attention. It is very important for me to hear suggestions from people who have first-hand experience with current systems and I appreciate you sharing the ALA’s knowledge of this area.

Yours sincerely

CAMPBELL NEWMAN
Mr Campbell Newman MP  
Premier  
PO Box 15185  
City East Qld 4002

6 August 2012

Dear Mr Newman,

NDIS and NIIS - Concerns of the Australian Lawyers Alliance

The Australian Lawyers Alliance ("ALA") is a national association of lawyers, academics and other professionals. We are dedicated to protecting and promoting justice, freedom and the rights of the individual. Most of our members work closely to help people with disabilities, acquired usually through illness or injury.

The ALA strongly supports the improvement in funding and service delivery for those with disabilities. However, increase in support to those with disabilities must be financially sustainable, viable and empowering. The ALA has concerns on several grounds.

The ALA has serious concerns regarding many aspects of the National Disability Insurance Scheme ("NDIS") and the National Injury Insurance Scheme ("NIIS"). They are:

NDIS

1. Preservation of Existing Rights  
Those who are catastrophically injured should not be worse off as a result of changes and any improvement for the severely disabled should not come at the expense of other injured people. This should be guaranteed.

2. One Scheme Only  
There is no need to create two schemes and the cost of the two bureaucracies, particularly as the distinction between catastrophically injured and the severely disabled is blurred. There should be one NDIS to cover all those who are severely disabled regardless of cause.

3. Independent Right of Review  
Severely disabled people and their families need to have access to an independent right of review as part of the scheme if they are to be empowered by it.
4. **Cost**

In our view, the Productivity Commission Report, has seriously underestimated the true cost of an NDIS. At present, around $7 Billion annually is allocated to the disability sector. Whilst the Productivity Commission Report recommended an additional $6.5 billion recurrent annual funding be allocated to the NDIS, that figure has since grown to $8 billion dollars per year.

5. **Eligibility Criteria**

The eligibility criteria for entry into the NDIS remain lacking in clarity. In particular uncertainties continue on whether those with chronic illnesses would qualify.

6. **“Long-tail” Scheme Failures**

The nature of the NDIS, is a "long tail" Scheme. The risks of long-tail schemes are demonstrated by the disastrous New Zealand scheme and the South Australian workers' compensation scheme. Affordability and long term viability of such schemes, requires closer analysis.

7. **Commonwealth-State Cost Sharing**

At present, around 70% of disability services, are delivered by or through the auspicies of State organisations. Of the additional $8 billion said to be required to implement a NDIS, there is an expectation on the part of the Federal government that the States share the funding. As the States' share of Commonwealth taxation revenue is continuing to decline, the Federal government has given no indication as to where the States are expected to find their share.

8. **Lack of Workforce Planning**

The Productivity Commission report acknowledges that the workforce infrastructure required to implement a NDIS requires much more work. We agree. There are insufficient trained and experienced people to deliver disability services. Implementing a NDIS without the development of a coherent workforce strategy, is a folly.

9. **Cost Shifting**

We are concerned that the scheme has the potential to shift costs away from wrongdoers and their insurers onto taxpayers.

10. **Potential inability of the Commonwealth to properly manage the scheme.**

The Productivity Commission proposes a national bureaucracy (National Disability Insurance Agency). This poses risks of effective and well-run State programs losing funding, with services then to be delivered through an untested Commonwealth body. The historical difficulties in Commonwealth bureaucracy delivering services are well known to the States, and to all disability organisations.

**NIIS**

1. **Proposed Changes to Insurance Schemes**

The Productivity Commission expressed a view that our current insurance schemes should be changed.
In particular the Productivity Commission was critical of aspects of our common law system. The comments failed to recognise that in delivering compensation (as distinct from safety net support), the cause of disability matters for a number of reasons. The ALA is concerned that the recommendations to change insurance schemes to provide no fault cover to those with catastrophic injuries permit removal of existing rights. The ALA believes that safety net coverage for those with catastrophic injuries is capable of being achieved by levelling up and without removing the existing common law rights.

2. Defective Comparative Analysis of Insurance Schemes

The ALA believes that the Productivity Commission comparative analysis of insurance schemes is defective. Specifically the ALA believes that insufficient critical analysis occurred at the South Australian WorkCover Scheme and the New Zealand ACC Scheme, both of which have proven to be economically disastrous. As a consequence of which rights, benefits and entitlements have been stripped away from people and the schemes originally intended to assist.

A proper and full analysis of those schemes demonstrates the absurdity of shifting the costs burden of wrongful conduct when the wrong doers and their insurers (who generally resolve matters in a few years and in a way that provides a measure of self determination for people with disabilities) to the State administered by huge costly and inefficient bureaucracies delivering minimal benefits in a slow drip feed.

The defective analysis also does not consider other examples of international schemes sufficiently.

The ALA would welcome the opportunity to meet with you at your earliest convenience to discuss the concerns of which we have provided an overview in this letter.

I look forward to hearing from you.

Yours faithfully,

Adam Tayler
QLD State President
Australian Lawyers Alliance
Pages 134 through 174 redacted for the following reasons:
- Sch.3(2)(1)(a)&(b) - (a) Information brought into existence for the consideration of Cabinet & (b) Disclosure would reveal consideration of Cabinet or would otherwise prejudice the confidentiality of Cabinet considerations or operations.