NDIS Supports rules (Section 10) consultation

Joint Submission by Disability Representative Organisations

4 August 2025

About our organisations

This submission was developed by Disability Representative Organisations (DROs), with coordination support from Disability Advocacy Network Australia (DANA) in their role as the National Coordination Function. The DROs are funded by the Department of Social Services (DSS) to represent and promote the rights of people with disability.

The following organisations have endorsed their support for this joint submission:

- Australian Autism Alliance
- Australian Federation of Disability Organisations
- Children and Young People with Disability Australia
- Community Mental Health Australia
- Disability Advocacy Network Australia
- Down Syndrome Australia
- First Peoples Disability Network Australia
- Inclusion Australia
- National Ethnic Disability Alliance
- National Mental Health Consumer Alliance
- People with Disability Australia
- Physical Disability Australia
- Women With Disabilities Australia

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Executive Summary

We value the opportunity to make a joint submission about the NDIS Supports rules (Section 10). The views below represent the collective voice of endorsing organisations. This collective voice may differ in content from any individual organisation's separate submissions due to a more targeted focus on the respective cohorts that we represent.

The focus of this submission is to present solutions that can address key challenges and improve the NDIS Supports definition to operate more fairly and effectively for people with disability. We set out recommendations pertaining to clarity and consistency in decision making; inclusion and consideration of intersectional and diverse needs; and connections with other reforms and systems of support. The NDIS Supports rules must be reflective of the diverse lived experiences of people with disability, including those with co-occurring conditions, intersecting identities and experiences of marginalisation, and with access to supports that are flexible, culturally appropriate, and responsive to individual needs.

This submission's scope is limited due to the constraints indicated by the DSS, namely that the existence of NDIS Supports lists is non-negotiable. Notwithstanding, at the start of this submission, we reiterate the DROs support for a principles-based approach as the best path forward. This can offer a robust framework for decision making while promoting choice and control, flexibility and innovation. We maintain that the principle-based model better aligns the NDIS Supports rules with the spirit of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) and the objectives and principles set out in Part 2 of the NDIS Act (which heavily references the UNCRPD). We strongly encourage that any opportunity that is identified to address this is explored. We include reference to the possible pathway set out by the Justice and Equity Centre (JEC) in their submission for this consultation.

Recommendations

Recommendations on structure and design

1. Embed guiding principles in NDIS Supports lists

Embed clear guiding principles into the NDIS Supports lists to guide consistent interpretation and application. These principles will enable flexible, inclusive decision-making to accommodate the diversity of disability experiences within a structured framework.

2. Combine the separate 'in' and 'out' lists into a single 'in' list, noting any exclusions or exceptions within it.

The Transitional Rules should be restructured to create a single consolidated 'in' list that:

- Organises supports by subject matter categories;
- Clearly distinguishes excluded supports from those included; and
- Addresses exclusions based on overlaps with, or availability of, other service systems.

Recommendations on improving NDIS Supports inclusion

To minimise potential harm to people with disability associated with gaps in support, we have made several recommendations to address the barriers outlined in the examples below. However, these recommendations do not replace the need for broader reform to the structure, interpretation and application of the lists. The lists need to be flexible, inclusive, and aligned with the rights and support needs of people with disability.

3. Exclusions of 'standard items' need to be framed in terms of the absence of a distinct functional benefit for a person with disability

We support the JEC recommendation regarding 'standard items', that where the Permanent Rule seeks to prevent NDIS funds from being used to purchase standard items, the exclusion should apply only to items that do not provide a *distinct functional benefit* to the person with disability. Importantly, items should not be excluded solely because they have not been modified or adapted for the individual NDIS participant. The framing of 'distinct functional benefit' should include clear guidance around the application of this principle to decision making, and must not create an additional evidentiary burden on the person with disability.

4. Amend the NDIS Supports lists to ensure inclusion of supports that are crucial for safety, autonomy, and community participation

The drafting of the Permanent NDIS Supports lists must safeguard access to essential supports for people with disability, ensuring safety and inclusion by recognising diverse and intersectional needs. When revising definitions and support categories, the following exclusions should be avoided to prevent harm:

- **Assistive technologies** such as food processors and blenders, which are vital for participants with swallowing impairments, intellectual disability, or motor deficits.
- **Nutritional supports and vitamins** for people with dysphagia, which should be applied consistently across support categories.
- **Short Term Accommodation (STA)** flexibility, to enable creative and cost-effective respite options that meet participants' needs and help prevent carer burnout.
- **Parenting supports** to provide greater clarity for participants and decision-makers and to recognise parenting as a key activity of daily living - the denial of which disproportionally impacts parents with a disability.
- **Participation in self-advocacy conferences**, especially for people with intellectual disability, to support their engagement in NDIS planning and decision-making.

5. **The National Disability Insurance Agency (NDIA) must ensure support rules and decisions explicitly account for intersectional factors**

The Permanent Rule must allow for flexibility in decision-making to accommodate the complex, intersectional needs of participants. This includes, but is not limited to, race, gender, sexuality, age, culture, location, or socio-economic status. This will help to ensure the system is equitable and accessible to all participants. We specifically recommend:

- Parenting supports to ensure parents with disabilities can receive assistance for parenting tasks, just as other life skills are supported. Include parenting and care-related supports such as parenting programs, household items and meal preparation, and early childhood supports;
- Recognising gendered disability experiences by funding supports like period products, sexual wellbeing aids, and caregiving supports that directly relate to disability and the individual's gendered realities;
- Guiding decisions to consider disability-specific needs without limiting funding supports based on disability types, for example, including exercise physiology for people with psychosocial disability where it supports disability-related needs; and
- Trusted, culturally responsive support models, such as bilingual support workers and CALD-led organisations that are best positioned to provide inclusive and

accessible supports.

Recommendation on redesigning replacement support mechanism

6. Design the replacement support process to be clear, accessible, inclusive and fit for purpose for all people with disability

Subsequent to the reforms of the NDIS Supports list, the design of the replacement support mechanism should be better integrated within the process of determining whether a support is funded under the NDIS. To make the replacement support process efficient, inclusive, and user-friendly for all NDIS participants we recommend:

- Redesigning the replacement support process to make it more accessible, flexible, and effective for participants with complex and high needs;
- Removing the need for participants to apply separately for replacement supports after denial in the initial planning process and simplify the process;
- Ensuring accessibility and provide supported decision-making for people with intellectual disabilities, and others who need or want support with decision making, addressing the barriers they face in the planning process;
- Improving communication and awareness of the replacement support process to encourage more participants to access and benefit from it; and
- Embedding an expectation that planners have a comprehensive understanding of the participant's disability and support needs to better inform replacement support decisions.

7. Develop a pre-clearance approach for purchase of NDIS supports

Government should develop a structured process that provides rapid, and reliable advice to participants in a structured way that would provide them with confidence in making purchasing decisions and allow the intended flexibility with NDIS funds. Any such process must:

- Deliver timely responses to participant inquiries;
- Offer full protection against claims of future debts for participants who follow the advice provided; and
- Be accessible in multiple formats to meet diverse communication needs.

Recommendation on extending transition timeframes

8. Extend the transitional provision for codesign and alignment with other reforms

The transitional provision must be extended to allow adequate time for:

- Co-design of the new Permanent Rule in genuine partnership with people with disability and their representative organisations;
- Meaningful engagement with disability organisations and the broader community; and
- Alignment with other NDIS reforms to ensure systems are consistent and effective in achieving their objectives given their interconnection with the new Permanent Rules.

The extended transition must also ensure individuals have sufficient time to:

- Identify, access, and engage with alternative supports that are free and tailored to their specific needs; and
- Transition safely before any current NDIS-funded services are withdrawn

Any new or revised support lists must be released in draft form for public consultation prior to finalisation or submission to National Cabinet.

Recommendations on the interface with other system reforms

9. **Supports must not be excluded based on assumed access to mainstream or foundational systems by incorporating verification that available, accessible and appropriate supports exist**

For supports that rely on access to alternative systems, there must be provisions incorporated into the Permanent Rule that verification is required that the supports in the alternative system(s) exist and meet the needs of the person with disability, including that the supports are available, accessible and appropriate. This would include:

- Ensuring that supports are in place and form part of the Foundational Supports ecosystem, before supports are withdrawn, refused or limitations on supports are implemented that remove access to those supports through the NDIS; and
- Identifying the other service system(s) responsible for providing supports excluded from the definition of NDIS supports.

10. **Ensure clear and proactive referrals to verified alternative services**

The NDIA must ensure that all affected participants receive clear, proactive referrals to alternative services – with those supports being verified, available, accessible and appropriate. This includes:

- Clearly identifying the other service systems responsible for providing supports excluded under the Permanent Rule, where exclusions are based on appropriateness of provision by another system;

- Specifying available pathways for accessing psychosocial support outside the NDIS, including relevant funding sources and responsible service providers; and
- The NDIA must ensure that people are provided with support to navigate these services if they cannot access them through the scheme. For example, navigation supports should be integrated in the delivery of Foundational Supports.

11. **Establish mechanisms to resolve disputes over service system responsibilities**

Mechanisms must be designed and implemented to resolve disputes about which service system is responsible for delivering specific supports. This includes:

- Developing tailored measures for each service system referenced in the Permanent Rule;
- Enabling the NDIA and relevant government agencies to jointly resolve disputes—both those affecting individual participants and those arising at a broader systemic level; and
- Ensuring participants are not left without support due to unclear or contested responsibilities between systems

12. **A dedicated national advocacy service be funded to support NDIS participants to consider and lodge complaints of disability discrimination against service systems that fail to meet their relevant legal obligations**

We support the JEC recommendation that the Commonwealth Government should fund a national service of independent advocacy to support NDIS participants in pursuing disability discrimination complaints against service systems that fail to meet their legal obligations. Key features are:

- Accessibility to NDIS participants, including those referred by the NDIA;
- Provision of advice on participants' rights under disability discrimination law; and
- Assistance with drafting and lodging complaints where a service system may have unlawfully declined necessary supports.

Background

We welcome the opportunity to make this submission providing recommendations to the consultations on the permanent rule to define National Disability Insurance Scheme ('NDIS' or 'Scheme') supports for the purposes of Section 10 of the National Disability Insurance Scheme Act 2013 Commonwealth (Cth) ('NDIS Act') ('Permanent Rule').

DROs responded to the consultation on the National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (NDIS Supports) Transitional Rules 2024 (Cth) ('Transitional Rules').[1] We categorically stated that we did not support the proposed NDIS Supports lists and expressed strong concerns about several aspects of the proposed transitional rule:

- Lack of engagement and consultation in terms of the time, accessibility, and community inclusion in the consultation;
- Potential adverse impacts on people with disability relating to costs, access and lack of clarity about exceptions or clear review process;
- Challenges of implementation by the NDIA, and lack of connection with other reforms.

The Transitional Rules took effect on 3 October 2024 with participants only able to use their NDIS funds for supports according to three lists:

- Supports that are 'NDIS supports';
- Supports that are not 'NDIS supports'; and
- 'Replacement supports' - Supports that are not NDIS supports that may be considered replacement supports.

The Permanent Rule will operate in the larger context of a new 'disability ecosystem', in connection with new framework plans. It is important that the Permanent Rule considers access to supports outside the NDIS. The Government has acknowledged that Foundational Supports arrangements are interconnected with the NDIS reform rules and the finalisation of a multi-year hospital funding agreement with the states and territories. So, the initial timeline for rolling out Foundational Supports in July 2025 has shifted to finalising those negotiations for the end of this year.

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[1] Joint submission from national Disability Representative Organisations, Consultation on draft lists of NDIS Supports for NDIS Amendment (Getting the NDIS Back on Track No. 1) Bill 2024, DANA website, https://dana.org.au/resource/joint-submission-draft-lists-of-ndis-supports-for-ndis-amendment/

Preference for principles-based model of support

We have framed most of this submission around improvements to the NDIS Supports rules within the constraints indicated by the DSS, that the existence of NDIS Supports lists is non-negotiable. However, we feel it is still important to confirm DROs support for a principles-based approach as the best path forward, that can offer a robust framework for decision making while promoting choice and control, flexibility and innovation.

We consider that the principle-based model better aligns the NDIS Supports rules with the spirit of the UNCRPD and the objectives and principles set out in Part 2 of the NDIS Act (which heavily references the UNCRPD). Principles, if well-designed, would enable:

- Strengthened clarity and consistency in decision making;
- Consider individual's goals, context, support needs;
- Account for access to other community and government services; and
- Recognise and operate with the complexity and diversity of disability.

Below, we discuss in greater detail how principles could be incorporated into the Permanent Rule to address challenges within the current structure and design of supports.

Preferred overarching approach to drafting the Permanent Rule

We acknowledge the government's assertion that the NDIS Support lists are restricted to this format in the drafting of Section 10 of the NDIS Act. This flows from the authority under the external affairs power under Section 51(xxix) of the Australian Constitution, via the UNCRPD, forming the basis of power to legislate this element of the NDIS.

The current reliance on an 'in' and 'out' list to Transitional Rules has shown this does not work. Alternatives need to be considered, including amending the Act if necessary. We support the suggestion made by JEC in their Submission that an alternative approach be considered to address the apparent constitutional concerns that would provide participants with the flexibility they need.[2]

We note the example approach set out in their submission, namely, that the Commonwealth Government could ask the State Governments to refer power as necessary for the Government to disburse NDIS funds without constraining their

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[2] Justice and Equity Centre, *Submission to NDIS Supports rules consultation*, 25 July 2025.

expenditure by participants to items on a list of approved NDIS supports.[3] We acknowledge the above approach poses significant political challenges.

If the referral power is achieved, it would be possible for the Commonwealth Government to administer NDIS funding in whatever way it wanted, without needing to rely on the external affairs power and without requiring lists of approved supports as there will always be cases where supports that are appropriate will not have been considered. The recommended subsequent steps are then:

- Amend Section 10 so that the wording of the NDIS Act does not require lists of NDIS Supports; and
- Ensure that flexible funding can be spent on anything a participant wants, subject only to specified exclusions (i.e., an 'out list only' approach).

This 'out list only' approach would allow the Government to achieve its desired policy goals of governing interfaces between the NDIS and other services, excluding certain supports they consider the NDIS should not fund while creating greater flexibility and certainty for participants. We note that notwithstanding this as an option for exploration, we have made recommendations below that operate within the current constraints, including incorporation of principles within one 'in' list that better guides decision making, alongside other important improvements.

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[3] We acknowledge this will require all six states to make a referral of power to the Commonwealth Government using the Constitutional basis of referral of state powers, under Section 51 (xxxvii). There is some leverage to call upon the States to support the Scheme reforms through this co-operative federal approach, given the States are required to approve the permanent rule for NDIS supports (it is a Category A NDIS Rule).

Section 1: Structure and design

Current challenges and barriers for defining NDIS Supports

If support lists must be retained, we strongly believe significant reform is required to create a rule that is fit for purpose. The lists are failing to create a robust framework for decision makers to make consistent and clear decisions. The current lists are vague and difficult to interpret, while the replacement list is extremely limited. In addition to ambiguous terminology, one of the challenges with the lists currently, is how the focus is on the specific goods or services instead of focusing on a definition that creates a step-by-step guide to making a determination.

The structure of the support lists themselves creates confusion. Reading the lists together gives rise to contradictions that result in uncertainty, unfair exclusion, and, in some cases, clinical or safety risks. This results in different interpretations and practical applications where needs are complex or there are multiple intersecting needs. This is compounded by the NDIA's consideration of NDIS Supports often failing to fully take into account the different contexts in which people use supports and the multiple supports which may be required for different purposes due to diversity of disability.

The list-based framework undermines the intent of individualised planning that considers broader environmental, social, or economic factors that impact access and inclusion. This lack of clarity and consistency is having major impacts on the community and the systems that support people with disability. The unclear and conflicting language has created barriers to person-centred planning for NDIS participants and plan providers. Participants and planners struggle to understand what is covered, especially for broader categories - everyday items like household goods and daily living expenses.

Creating clarity and consistency for NDIS Supports decisions

The Government has focused on the purpose of the lists to provide a better understanding about what the NDIS can or cannot fund, and this is reflected in the Summary Paper for this consultation. As the basis of NDIA decision making about which supports can be funded by the NDIS, the Permanent Rule will have significant impacts on people with disability and their access to support. So, a major test for the design and quality of the Permanent Rule will be whether it enables transparent, consistent and fair decisions about supports.

The design of the Permanent Rule must enable flexible and complex decision making using transparent methodology that can be understood by people with disability, their supporters and planners (including plan managers, Local Area Coordinators (LACs),

and the proposed role of navigators) and advocates. The structure should be clear enough to mitigate inherent bias held by different decision-making groups, all of whom have different motivators.

We consider that the list format does not preclude the inclusion of principles. The defining list of supports would be enhanced by incorporating considerations and conditions to deciding what types of supports are funded by the NDIS. Principles that are reflective of the purpose and objectives of the NDIS act would strengthen the decision-making framework while keeping the 'declarative' nature of descriptive categories.

We believe that a single, but not exhaustive, list that details what people can spend their NDIS Plans on, would work more effectively as a decision-making tool. Simplifying the structure to one list that defines NDIS Supports would minimise potential conflicting information and enhance consistency in decisions. We note this position aligns with the recommendation made by JEC to 'Combine the 'in' and 'out' lists into a single 'in' list with carve outs'.[4]

Recommendations on structure and design

1. **Embed guiding principles in NDIS Supports lists**

Embed clear guiding principles into the NDIS Supports lists to guide consistent interpretation and application. These principles will enable flexible, inclusive decision-making to accommodate the diversity of disability experiences within a structured framework.

2. **Combine the separate 'in' and 'out' lists into a single 'in' list, noting any exclusions or exceptions within it**

The Transitional Rule should be restructured to create a single consolidated 'in' list that:

- Organises supports by subject matter categories;
- Clearly distinguishes excluded supports from those included; and
- Addresses exclusions based on overlaps with, or availability of, other service systems.

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[4] Justice and Equity Centre, *Submission to NDIS Supports rules consultation*, 25 July 2025.

Section 2: Improving NDIS Supports inclusion

Current lists fail to reflect the diversity and complexity of needs

In our submission on the draft Transitional Rule, we expressed concerns about the adverse impacts that the NDIS Supports lists and carve-outs would have on people with disability. The lists change the nature of supports, limiting many reasonable supports that have been funded previously and posing the risk of harm to people with disability, and creates gaps in the support. Despite some changes, the Transitional Rule fails to reflect the diversity and complexity of participants' lives, undermining principles of person-centred practice and reasonable and necessary support.

At the heart of this issue is the entrenched bias towards narrow, medicalised interpretations of evidence and disability. Furthermore, lived experience and peer supports cannot—and should not—be evaluated through a clinical outcomes framework. In the absence of a dedicated and standardised approach to measure these supports, a clinical lens is often applied by default. This perpetuates the dominance of clinical paradigms and overlooks the unique value that lived experience perspectives bring. As a result, the true intent behind the inclusion of the lived experience workforce—in fostering empathy, connection, and holistic recovery—is routinely missed.

Engagement with our communities around the content of the lists, in particular the exclusions, highlight the need for broader community consultation and co-design. We have set out some of the specific issues with the current construction of the lists below, with key examples of exclusions impacting our communities. The examples and case studies outlined in this submission, detailed further in the appendix, are not an exhaustive list of our concerns with the proposed NDIS Supports lists. Rather, they illustrate deeper structural problems with a rigid, categorical approach to decision-making about supports.

These case studies are particularly important because they show the need for an intersectional approach and how the current lists have impacted different people in different ways. As DROs, we draw on the diverse representation within our national networks and have heard from people across our communities, representing a broad range of experiences and identities. The case studies presented here represent a sample of experiences that are reflective of wider concerns we have heard from our communities. While they do not capture every perspective or group affected, they highlight systemic risks in the current proposals and underscore the importance of inclusive, flexible, and responsive approaches to support design.

Appendix 1 includes further examples of exclusions that also must be considered.

Unclear terminology excludes necessary supports

There are many instances where the language used unfairly excludes necessary support or results in discrepancies within and between the lists. Where some supports related to a particular need are included, other necessary supports are excluded without clear justification. Supports that may be essential for one person, but not others, can be excluded for all participants because they are not effectively framed, regardless of their effectiveness or relevance.

Referencing "standard" on the 'out' list

The term "standard" is used numerous times to describe things that are not NDIS supports - from household items to furniture, scooters and mobility devices etc. This restrictive definition does not recognise that what is an everyday or luxury item for one person is a genuine disability support for another. For example, noise-cancelling headphones, protective cases for communication devices, fidget tools, or robot vacuums may be necessary for access, safety, or communication. The current definition unfairly narrows considerations for standard items to those that are not modified or adapted, unfairly excluding the broader consideration of whether a standard item addresses the functional impairments of the person with disability. The definition should allow for flexibility in decisions that consider items not modified or adapted that meet a disability-specific need where appropriate.

Inconsistent categorisation: Eating, feeding, swallowing supports (Dysphagia)

The funding of appropriate feeding and swallowing supports are essential for the safety and nutrition of participants with dysphagia. We have concerns with the lists in two specific ways.

- Dysphagia and nutritional support: Schedule 1 permits nutritional supplementation for people with dysphagia and Schedule 2 broadly bans vitamins for all participants, including those with clinically diagnosed conditions requiring specific supplementation. Though both can be medically necessary and disability related, we are seeing inconsistent application and inappropriate denials because of confusion around terminology and categorisation.
- Assistive technology for food preparation: Participants with swallowing impairments, intellectual disability, or fine motor deficits may require advanced assistive technology—such as food processors, blenders, or Thermomix devices—to remain independent and nutritionally safe. Yet, these supports have been denied due to general exclusions or misclassification, despite their explicit connection to a participant's impairment and everyday functioning.

Considering intersectional needs for inclusion

The rigidity of the lists fails to recognise the diverse ways disability affects individuals, even among those with the same diagnosis, and does not account for varied life circumstances, identities, and cultural backgrounds. A one-size-fits-all approach to support exclusion limits autonomy, connection, and participation in community life, and disproportionately impacts communities with complex needs and those experiencing intersecting forms of disadvantage.

Short-term accommodation (STA) with flexible arrangements

The exclusion of STA has significantly reduced flexibility, particularly for participants accessing respite. Under the new rules, creative and cost-effective arrangements - such as staying at an Airbnb with a support worker - are no longer considered claimable, with participants instead being pushed toward registered disability-specific STA providers.

This shift undermines choice and control, especially for adults living with family who rely on flexible respite options to maintain wellbeing and independence. These rigid requirements not only limit personal freedom but also come at a higher financial cost to the Scheme. The impact is particularly severe for people with complex needs and their families, who often require tailored, individualised or innovative respite arrangements that cannot be delivered through standardised STA models. Removing these options places additional stress on families and increases the risk of carer burnout and crisis.

Conferences that promote knowledge and skills

Attending specialist conferences developed by and for people within the disability community provides essential opportunities to build peer networks, gain knowledge and skills, and engage in shared learning. These events support people to express their views, contribute to discussions, and build confidence in speaking up about issues that affect them. Developing self-advocacy skills in this way is critical for people to participate meaningfully in NDIS planning and decision-making, and to exercise their rights in the services they receive. These skills are also essential to meaningfully take part in government consultation and co-design activities, including those undertaken by the Agency during this critical period of reform.

For example, people with an intellectual disability have few, if any, ways of having their views and interests known by the government other than self-advocacy. People with an intellectual disability are more likely to interact with multiple public systems, including specialist services, and face unique systemic barriers to an inclusive life, whether in terms of housing, employment, education, justice or health. Conferences are a key mechanism for capacity-building, as well as a way for people with an intellectual disability to have opportunities to speak directly to government and other decision-makers who may also be part of conferences.

The *Having a Say* (HaS) conference, organised by VALID each summer in Geelong, Victoria, is the largest annual event by and for people with an intellectual disability in the Southern Hemisphere. It has been held each year (except during COVID lockdowns) for over 25 years. The goal of HaS is to build self-advocacy skills of people with intellectual disability and cognitive impairment. Due to changes in the NDIS Support rules, this year's conference in February 2025 had 200 fewer people with disability attend than last year, due directly to confusion regarding the new rules and the impact of the new rules themselves. Plan managers were very reluctant to consider approving funding, so they said 'no' to every approach even when the participant specifically had HaS in their plan and the plan was signed off before the 3 October 2024.

Parenting Supports

Parenting is a fundamental and ordinary part of daily life for millions of Australians, and all parents benefit from support at different times. Parents with disability have the right to parent and to be supported to parent. These rights are recognised under the UNCRPD, particularly Article 12 (equal recognition before the law) and Article 23 (respect for home and the family).

Despite this, many parents - particularly parents with an intellectual disability - face significant barriers to accessing parenting supports, especially through the NDIS. These barriers include inconsistent decision-making, unclear responsibilities between the NDIS and mainstream services, and the effects of systemic discrimination. A recent survey by People with Disability Australia (PWDA) noted that the NDIA frequently labels essential supports for children or families as "parental responsibility," even when directly related to a participant's disability. Excluding parenting supports from the 'yes' list will exacerbate these barriers by reinforcing existing service gaps, creating further uncertainty, and poor outcomes for families and communities.

In particular, parents with an intellectual or neurological disability often face entrenched stigma and ableist assumptions about their capacity to parent, which influence both the availability of support and how they are treated by service systems, including the NDIS and child protection. Many of these parents with disability need tailored, individualised support to develop and maintain parenting skills over time. Without early, appropriate support, parents can be pushed into crisis, increasing the risk of intervention by child protection systems and avoidable family separation.

Hospital environments are often inaccessible for parents with disability, which complicates discharge planning and the safe return to the family home. Many hospitals lack adjustments for mobility, communication, or sensory needs, and hospital maternity or parenting spaces are rarely set up to be inclusive. The NDIA's hospital discharge guidelines note that health staff and NDIS support coordinators must collaborate to assess and plan for disability-related needs before discharge, but delays in plan

adjustments and lack of accessible discharge infrastructure pose significant risks for new parents with disability.

Including parenting supports on the 'yes' list is a practical and necessary step. It would provide greater clarity for participants and decision-makers, reduce confusion and delays, and help ensure that the NDIS delivers on its core purpose to provide choice and control. Recognising parenting as a key activity of daily living would enable the NDIS to fund this support in the same way it funds other life skills - contributing to more equitable outcomes for parents, children, and communities.

Applying a gendered lens to supports

The narrow definition of disability-related support fails to uphold the rights guaranteed by the CRPD, especially Article 6 (mandating gender-responsive action) and Article 23 (respect for home and the family). The NDIS Support rules must recognise that people's disability-related needs cannot be separated from other facets of their lives. A gendered lens recognises the needs of women and gender diverse people with disabilities.

Women with Disabilities Victoria conducted three online consultations with Community Hub members, Gender and Disability Experts by Experience advocates and Youth Experts by Experience Advocates, as well as a member survey with 77 responses. These consultations showed that the current NDIS Supports rules restrict access to supports by narrowly defining what qualifies as a disability-related need.

Women and gender diverse people with disabilities reported that their disability support needs cannot be separated from their broader identities, including their roles as parents, carers, and people with reproductive and sexual health needs. They are experiencing increased administrative burden, and their gendered needs and caregiving roles are not adequately recognised, creating further barriers to choice, control and full participation in everyday life.

Concerns were particularly pronounced when participants tried to access supports that met everyday needs, such as bathers for hydrotherapy, period underwear, sexual wellbeing aids, or household appliances. These gendered supports were inseparable from their disability-related needs but were excluded due to being labelled "mainstream."

Disability is often a barrier to financial security, which in turn limits the capacity of people with disabilities to pay for essential goods and services. This financial precarity is more pronounced for women with disabilities, who are more likely to be unemployed than people without disabilities or men with disabilities. Ensuring that the basic support needs of people with disabilities are met requires that the Government provide payment for disability-related everyday supports.

Limiting specific supports for narrow disability categories such as physical or psychosocial disability

Funding for some items on the NDIS list is being limited to specific disability categories, not recognising the interplay and connections between all disabilities. A key example is where people with psychosocial disability are unable to get cover for exercise supports yet this is available for people living with physical disability. There is substantial evidence that physical health and activity can positively influence mental health and symptom severity. Additionally, weight gain is a well-documented impact of several medications prescribed to people with psychosocial disability leading to early mortality and co-morbidities including obesity, cardiovascular disease and diabetes.

Addressing barriers for Culturally and Linguistically Diverse (CALD) communities

People from CALD communities face additional barriers to accessing NDIS Supports. These can include language inaccessibility, lack of translated materials, limited culturally appropriate services, barriers to digital engagement, and bias related to a person's cultural or linguistic background in decision-making. Many people from CALD backgrounds also face challenges in articulating or identifying the types of supports they need, particularly when navigating a system that does not reflect their cultural or lived experience. These barriers have been identified with corresponding actions within NDIS Review final report the Cultural and Linguistic Diversity (CALD) Strategy 2024-2028. These priorities must be considered and accounted for within support rules and decisions, including through funding bilingual support models, community-led providers, and digital accessibility measures tailored for CALD communities.

Recommendations on improving NDIS Supports inclusion

To minimise potential harm to people with disability associated with gaps in support, we have made several recommendations to address the barriers outlined in the examples above. However, these recommendations do not replace the need for broader reform to the structure, interpretation and application of the lists. The lists need to be flexible, inclusive, and aligned with the rights and support needs of people with disability.

3. **Exclusions of 'standard items' be framed in terms of the absence of a distinct functional benefit for a person with disability**

We support the JEC recommendation regarding 'standard items', that where the Permanent Rule seeks to prevent NDIS funds from being used to purchase standard items, the exclusion should apply only to items that do not provide a distinct functional benefit to the person with disability. Importantly, items should not be excluded solely

because they have not been modified or adapted for the individual NDIS participant. The framing of 'distinct functional benefit' should include clear guidance around the application of this principle to decision making, and must not create an additional evidentiary burden on the person with disability.

4. Amend the NDIS Supports lists to ensure inclusion of supports that are crucial for safety, autonomy, and community participation

The drafting of the Permanent NDIS Supports lists must safeguard access to essential supports for people with disability, ensuring safety and inclusion by recognising diverse and intersectional needs. When revising definitions and support categories, the following exclusions should be avoided to prevent harm:

- **Assistive technologies** such as food processors and blenders, which are vital for participants with swallowing impairments, intellectual disability, or motor deficits.
- **Nutritional supports and vitamins** for people with dysphagia, which should be applied consistently across support categories.
- **Short Term Accommodation (STA)** flexibility, to enable creative and cost-effective respite options that meet participants' needs and help prevent carer burnout.
- **Parenting supports** to provide greater clarity for participants and decision-makers and to recognise parenting as a key activity of daily living - the denial of which disproportionally impacts parents with a disability.
- **Participation in self-advocacy conferences**, especially for people with intellectual disability, to support their engagement in NDIS planning and decision-making.

5. The NDIA must ensure support rules and decisions explicitly account for intersectional factors

The Permanent Rule must allow for flexibility in decision-making to accommodate the complex, intersectional needs of participants. This includes, but is not limited to, race, gender, sexuality, age, culture, location, or socio-economic status. This will help to ensure the system is equitable and accessible to all participants. We specifically recommend:

- Parenting supports to ensure parents with disabilities can receive assistance for parenting tasks, just as other life skills are supported. Include parenting and care-related supports such as parenting programs, household items and meal preparation, and early childhood supports;

- Recognising gendered disability experiences by funding supports like period products, sexual wellbeing aids, and caregiving supports that directly relate to disability and the individual's gendered realities;
- Guiding decisions to consider disability-specific needs without limiting funding supports based on disability types, for example, including exercise physiology for people with psychosocial disability where it supports disability-related needs; and
- Trusted, culturally responsive support models, such as bilingual support workers and CALD-led organisations that are best positioned to provide inclusive and accessible supports.

Redesigning replacement mechanism

A replacement support process was introduced alongside the transitional support lists to provide flexibility for items that are otherwise excluded under the Support Rules, such as standard IT devices. The replacement supports concept could have been designed as a mechanism for people with disability to demonstrate their innovation and problem-solving in adapting supports in diverse and creative ways. However, the process has been widely criticised by participants and advocates as inaccessible, burdensome, confusing, and inconsistently applied. The replacement support criteria are too restrictive and not practical for most disability supports.

NDIS participants are required to apply and participate in the replacement support application process which can take a significant amount of time and a level of capacity to navigate the administrative burden. This can create additional barriers, for NDIS participants with higher decision support needs and those who face barriers to support for decision-making and genuine choice and control over planning decisions. For example, less than half of people with an intellectual disability who are NDIS participants have part or full self-management of their plan.

This is compounded by broader systemic barriers within planning processes, which are not designed to be accessible for people with intellectual disability.[5] Inclusion Australia's involvement in the NDIS Review, which included extensive consultation with people with an intellectual disability and their families, collected several case studies showing that planning meetings are frequently rushed, conducted without access to accessible information or supported decision-making, and often exclude participants altogether. In many cases, informal supporters such as family members or paid staff - sometimes not of the person's choosing - are left to manage the process, placing a heavy burden on

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[5] Inclusion Australia (2023). Access and Planning for people living with intellectual disability. Access-and-Planning-NDIS-Review-Background-Paper.docx

them and reducing the participant's opportunity for direct engagement and self-determination.

Recommendations on redesigning replacement mechanism

6. Design the replacement support process to be clear, accessible, inclusive and fit for purpose for all people with disability

Subsequent to the reforms of the NDIS Supports defining lists, the design of the replacement support process should be better integrated within the process of determining whether a support is funded under the NDIS. To make the replacement support process efficient, inclusive, and user-friendly for all NDIS participants we recommend:

- Redesigning the replacement support process to make it more accessible, flexible, and effective for participants with complex and high needs;
- Removing the need for participants to apply separately for replacement supports after denial in the initial planning process and simplify the process;
- Ensuring accessibility and provide supported decision-making for people with intellectual disabilities, and others who need or want support with decision making, addressing the barriers they face in the planning process;
- Improving communication and awareness of the replacement support process to encourage more participants to access and benefit from it; and
- Embedding an expectation that planners have a comprehensive understanding of the participant's disability and support needs to better inform replacement support decisions.

7. Develop a pre-clearance approach for purchase of NDIS supports

Government should develop a structured process that provides rapid, and reliable advice to participants in a structured way that would provide them with confidence in making purchasing decisions and allow the intended flexibility with NDIS funds. Any such process must:

- Deliver timely responses to participant inquiries;
- Offer full protection against claims of future debts for participants who follow the advice provided; and
- Be accessible in multiple formats to meet diverse communication needs.

Section 3 – extending transition timeframes and interface with other reforms

Extending transition timeframes

In light of the complex ecosystem of reforms and timeframes, the changes to NDIS Supports lists are happening too quickly for participants and providers to adapt. For any proposed NDIS reforms including NDIS Supports lists, an extensive period of transition is also required to allow for rigorous review and testing with diverse communities. This process of revision and redesign must be transparent and focused on achieving consistent application and flexibility to accommodate diverse needs.

Extending the transition period would ensure that people with disability can test the rules in practice and be involved in meaningful consultation and co-design. This transition must provide individuals with adequate time to identify, access, and engage with alternative supports that are free and tailored to their specific needs before any current NDIS-funded services are withdrawn.

Extending the transition period would allow for codesign and collaboration to ensure that the Permanent Rule aligns with the needs of specific communities. For example, Women with Disabilities Australia (WWDA) and other peak representative organisations for women would ensure alignment with the NDIA's forthcoming Gender Strategy and the needs of women, girls, and gender diverse people with disabilities. Similarly, the National Mental Health Consumer Alliance (NMHCA) supports a longer transition period to allow time to ensure there are alternative supports for NDIS participants with psychosocial disability. This also applies to the Australian Autism Alliance (AAA) who request a longer transition period to ensure that there are adequate Foundational Supports for children with "mild" or "moderate" autism, that government has targeted, given the recognised importance of early intervention and education is the key to life outcomes.

Alignment with specific NDIS reforms

NDIS Eligibility Re-assessments

Alongside major NDIS reforms, new processes such as NDIS eligibility re-assessments, are being introduced. A sharp increase in eligibility re-assessments has occurred simultaneously to the introduction of the NDIS Supports list and are further adding to the confusion and fear experienced by participants and their families. The process is occurring in reverse order, with reassessments happening before Foundational Supports are designed and implemented.

A survey conducted in May 2025, by Children and Young People with Disability Australia (CYDA), found that children and young people with disability, their families and caregivers are scared, confused, and overwhelmed.[6] There is particular concern that children aged nine and under may be removed from the NDIS without alternative supports or clear pathways. The survey found that Autistic young children and First Nations children with disability or developmental delay were being disproportionately impacted by reassessments. There is a strong risk of harm to children and families if NDIS removal occurs without alternatives in place.

Needs Assessment Timeframes

The Explanatory Memorandum of the NDIS Bill 1 intended for the support needs assessment to be "co-designed with the disability community" to ensure "needs are assessed in a holistic and sensitive way". It is purported that this new framework will lead to more equitable budgets and greater flexibility in support arrangements. There has not been enough time to implement co-design of needs assessment processes. Furthermore, the current focus on rigidly defining NDIS Supports seems inconsistent with the objectives of flexibility and equity.

Recommendation on extending transition timeframes

8. **Extend the transitional provision for codesign and alignment with other reforms**

The transitional provision must be extended to allow adequate time for:

- Co-design of the new Permanent Rule in genuine partnership with people with disability and their representative organisations;
- Meaningful engagement with disability organisations and the broader community; and
- Alignment with other NDIS reforms to ensure systems are consistent and effective in achieving their objectives given their interconnection with the new Permanent Rules.

The extended transition must also ensure individuals have sufficient time to:

- Identify, access, and engage with alternative supports that are free and tailored to their specific needs; and

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[6] Children and Young People with Disability Australia, The impact of NDIS eligibility reassessments, CYDA website, https://cyda.org.au/advocacy/ndis-eligibility-reassessments-are-failing-families/

- Transition safely before any current NDIS-funded services are withdrawn.

Any new or revised support lists must be released in draft form for public consultation prior to finalisation or submission to National Cabinet.

Interface with other system reforms

Disability organisations have repeatedly called on the Government to ensure that people with disability are able to access supports while reforms are made to the NDIS. When the NDIS Review final report was released, our organisations said that continued access to support for people with disability is necessary and non-negotiable. Any changes to how support is provided, either inside or outside the Scheme, must not lead to any gaps in the support we receive. We restated this categorically when the NDIS Bill was first introduced.

There have been clear findings, both in the NDIS Review and other reports, that mainstream services are ill-equipped to meet the needs of people with disability and the envisioned Foundational Supports are in early stages of design. The key challenge at the centre of the NDIS Review – the NDIS being an oasis in a desert – has not been addressed, meaning that alternative supports do not exist yet, or are not accessible and inclusive.

The inherent presumption that carve outs are due to other systems providing those supports poses risk and harm where supports, in practice, are unavailable or inaccessible. Individuals previously accessing essential supports through the NDIS which are no longer available due to the NDIS Support Rules, have, and are, at serious risk of receiving no further assistance. In feedback to PWDA, people with disability reported that foundational or mainstream services are inaccessible. Respondents highlighted lack of access to disability appropriate and inclusive mainstream supports.

In order to ensure that there are no gaps in supports, it is important that any proposed reforms to the NDIS Supports list must align and interface with other concurrent NDIS reforms, such as Foundational Supports, and improving mainstream supports to be accessible and inclusive.

Setting up Foundational Supports ecosystem first

The current NDIS Supports rules assume that participants can access alternatives - mainstream and Foundational Supports - to meet certain needs. Foundational Supports were slated for 1 July 2025,[7] following recommendations from the NDIS Review,[8] and

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[7] Department of Social Services. (2024). *Disability Reform Roadmap*. Australian Government.
[8] NDIS Review. (2023). Foundational Supports for all people with disability. Australian Government.

were meant to provide basic, disability-related supports outside of the NDIS. However, implementation has been delayed due to push back from State and Territory governments, election-related disruptions, and the lack of formalised funding agreements between jurisdictions.[9], meaning these alternative supports outside the NDIS do not exist.

There is a clear gap for people with disability needing supports outside the NDIS with the delayed roll out of Foundational Supports. This absence of tangible support disproportionately affects those most at risk, compounding their vulnerability and further marginalising their wellbeing. For example, there are limited alternative options for people with psychosocial support needs where timelines are impacted by the next National Mental Health and Suicide Prevention Agreement foundational psychosocial supports remain conceptual without funding agreements or practical delivery mechanisms.

Before reforms to NDIS Supports lists are implemented, there is a need to first establish quality and effective Foundational Supports to prevent people with disability from falling through the cracks and to manage risks across systems (e.g. health, welfare, education, housing).

Other support ecosystems – inclusive education, health and employment

The NDIS does not operate in isolation—the ecosystem of supports extends to and is linked with reforms across education, health and employment.

The 2024 Productivity Commission Inquiry into Early Childhood Education and Care (ECEC) highlights continued uncertainty about the scope of mainstream and Foundational Supports. We are concerned that support lists may be finalised before Foundational Supports are in place, limiting the capacity of early childhood services to meet the needs of children with disability.

As the government implements the NDIS Review, it is essential to consider how inclusion policies in ECEC will be funded—particularly as some funding may shift from the NDIS to Foundational Supports—and what skills and resources educators will need to deliver them effectively.

Another key concern relates to the removal of NDIS-funded supports during hospitalisation. This policy shift appears to assume that hospital systems are

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[9] Wright, C. (2025, May 27). Foundational Supports held hostage by health funding negotiations. *Health Services Daily*; People with Disability Australia. (2025). States and Territories Abandon People with Disability as NDIS Reforms Tighten Access. [Media Release].

adequately equipped to meet a person's disability-related needs, an assumption that is not supported by evidence. Hospitals are often not aware of a person's NDIS status and typically lack the disability-specific training, staffing, or equipment to provide the necessary support.

The withdrawal of NDIS-funded supports during hospital stays introduces significant risks, particularly for people with complex communication, behavioural, or personal care needs. It also undermines continuity of care and can result in preventable harm.

The same issues arise when carve outs in the current lists are applied to employment. The current framework assumes that workplace support is the responsibility of employers or mainstream services. In practice, that support is patchy at best. In its consultation, PWDA heard that many participants face discrimination at work and struggle to access reasonable adjustments. Our survey found that nearly one in three respondents (30%) said the support lists had made it harder to work, and around a quarter said it had affected their ability to study (23%).

These issues are reflected in national data. The Australian Human Rights Commission (AHRC) consistently identifies disability as the most common ground for discrimination complaints and 1 in 4 of these complaints relate to employment. Employment rates for people with disability also remain low, with only 53% of working-age people with disability employed, compared to 84% of people without disability.[10]

These issues with education, health and employment highlight the dangers of assuming that state and territory systems can or will meet disability-related needs. The lack of support through the NDIS will reinforce and exacerbate the systemic exclusion of people with disability from accessing essential support and participating in community. It is essential that the current reforms in defining NDIS Supports consider the wider systems and reforms and the need for clearer guidance, better integration, and stronger safeguards across service systems.

Recommendations on interface with other system reforms

9. **Supports must not be excluded based on assumed access to mainstream or foundational systems by incorporating verification that available, accessible and appropriate supports exist**

For supports that rely on access to alternative systems, there must be provisions incorporated into the Permanent Rule that verification is required that the supports in the alternative system(s) exist and meet the needs of the person with disability,

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10 The Australian Institute of Health and Welfare. (2024). People with Disability in Australia. Australian Government, Canberra.

including that the supports are available, accessible and appropriate. This would include:

- Ensuring that supports are in place and form part of the Foundational Supports ecosystem, before supports are withdrawn, refused or limitations on supports are implemented that remove access to those supports through the NDIS; and
- Identifying the other service system(s) responsible for providing supports excluded from the definition of NDIS supports.

10. Ensure clear and proactive referrals to verified alternative services

The NDIA must ensure that all affected participants receive clear, proactive referrals to alternative services – with those supports being verified, available, accessible and appropriate. This includes:

- Clearly identifying the other service systems responsible for providing supports excluded under the Permanent Rule, where exclusions are based on appropriateness of provision by another system;
- Specifying available pathways for accessing psychosocial support outside the NDIS, including relevant funding sources and responsible service providers; and
- The NDIA must ensure that people are provided with support to navigate these services if they cannot access them through the scheme. For example, navigation supports should be integrated in the delivery of Foundational Supports.

11. Establish mechanisms to resolve disputes over service system responsibilities

Mechanisms must be designed and implemented to resolve disputes about which service system is responsible for delivering specific supports. This includes:
- Developing tailored measures for each service system referenced in the Permanent Rule;
- Enabling the NDIA and relevant government agencies to jointly resolve disputes—both those affecting individual participants and those arising at a broader systemic level; and
- Ensuring participants are not left without support due to unclear or contested responsibilities between systems.

12. A dedicated national advocacy service be funded to support NDIS participants to consider and lodge complaints of disability discrimination against service systems that fail to meet their relevant legal obligations

We support the JEC recommendation that the Commonwealth Government should fund a national service of independent advocacy to support NDIS participants in pursuing disability discrimination complaints against service systems that fail to meet their legal obligations. Key features are:

- Accessibility to NDIS participants, including those referred by the NDIA;
- Provision of advice on participants' rights under disability discrimination law; and
- Assistance with drafting and lodging complaints where a service system may have unlawfully declined necessary supports.

Appendix 1: Specific examples of supports

Categories of supports that require refinement and clarification

Care and support provided by families

Transportation relating to school: The vague term, "reasonable care and support provided by families", is being used inconsistently and often denies previously funded disability related supports. For example, the Yes list states the NDIS will fund transport to school where it is proven the participant cannot use public transport independently, however the No list speaks of parental responsibility, so transport to school is refused.

Care for adult children: Families are being told supporting adult children who have left school during weekdays is "parental responsibility". This is not manageable for families in the long term, and some have told us that they are being forced to consider relinquishing care of their adult children in order to access suitable support, resulting in the person with a disability requiring 24 hour home and living funding.

Education

Mainstream school-related supports: The current lists exclude mainstream school-related supports such as school excursions and home education, despite their critical role in inclusion and participation. Children with disability are falling through the gaps as schools often lack the resources to provide adequate inclusion and support. This issue is further compounded by the absence of Foundational Supports, which have not yet been implemented. Until schools are properly resourced and Foundational Supports are in place, excluding these supports from the NDIS risks denying children with disability equal access to education.

Higher education: While the lists exclude education and training generally provided in higher education or VET settings, the "Yes" list includes supports to access and maintain employment or higher education. This creates confusion when a participant seeks transitional support from a tertiary institution, particularly if the service is inaccessible or requires workplace adjustments. The ambiguity may lead to incorrect decisions and exclusion of students with disability from essential transitional supports.

Digital Literacy Tutoring: Digital literacy tutoring is not on the list. With many Australian Government funded mental health services now being offered through online means only, such as the upcoming introduction of the Australian Government's National Early Intervention Service online literacy is essential for people living with psychosocial disability.

CALD resources: For CALD communities, digital access is further limited by language barriers, lower rates of digital literacy, and communication platforms that do not account for cultural context or diverse communication styles. These structural exclusions must

be addressed by incorporating translated digital tools and support models delivered by bilingual educators, with content tailored to different cultural and linguistic needs.

Non-clinical therapies

Participation in non-clinical therapies would be more beneficial for some participants than conventional therapy such as psychotherapy. For example, non-clinical therapeutic supports such as yoga, mindfulness, trauma-informed programs, peer support, animal-based therapy is beneficial for some people.

Counselling: While counselling is not explicitly listed in the Supports list it would be helpful to include it and specify the circumstances in which this could be a funded NDIS support.

Exclusion of holistic, alternative, traditional medicine therapy: These changes disproportionately impact Culturally and Racially Marginalised (CARM) people on the scheme as they are no longer able to access their traditional medical approaches, even with a clinical referral.

Yoga: The current list of supports that are not NDIS Supports identifies yoga as a "Not evidence-based: Alternative and complementary therapies" resulting in it not being a funded support service. Many people with MS have lower levels of physical activity, for example, but staying active is one of the best things they can do for their physical and mental health. Gentle activities like yoga have been shown to help some individuals with Multiple Sclerosis (MS) with fatigue, mood, and flexibility. Yoga could be a beneficial "replacement" support for NDIS participants whose providers recommend they use yoga.

Non-disability-related health supports

There is no funding for health problems which are not part of an individual's disability. However, chronic health conditions can be nuanced. For instance, it is recommended that individuals living with MS with other comorbidities should actively manage their comorbid conditions (e.g. cardiovascular disease, diabetes, depression) as these can influence MS outcomes. There are instances where 'other' health conditions could be a contributory cause of their disability or contribute to the progression or worsening of their disability.

Case Study: Impacts on Assistance Animals

Assistance Animals are included as a funded support when accredited, but there is no reference to animal-assisted therapy or guidance on what constitutes evidence-based practice in this area. This creates uncertainty for participants and providers about whether and how animal therapy supports may be considered under the NDIS.

While the 'Yes' list includes Assistance Animals as an eligible support, significant barriers remain that undermine access and raise concerns about how evidence-based decision-making is applied in practice. These include the NDIA's resource-intensive evidence requirements and the limited number of training organisations with the necessary expertise to guide participants through the system.

A further barrier is the lack of knowledge among care teams. Australian occupational therapists often lack the information and resources needed to advise participants on whether an assistance animal may be beneficial and considered a reasonable and necessary support under the NDIS.[11] This is particularly concerning given occupational therapists frequently play a central role in the care team and are often required to act as the Assistive Technology Assessor under the NDIS assessment template. Without appropriate knowledge and tools, even evidence-based supports like Assistance Animals remain out of reach for many participants.

Currently, the NDIA implements operational guidelines and policies that set out the types of assistance animals that the NDIS will fund, to the exclusion of other types. These are:

- Dog guides & hearing assistance animals — for the blind & D/deaf communities;
- Physical assistance animals — also commonly known as mobility assistance animals for people with physical disability; and
- Assistance animals for some participants who have been diagnosed by a psychiatrist with long-term but stable Post-Traumatic Stress Disorder ('PTSD').

Current guidelines therefore exclude medical alert assistance animals, such as epilepsy seizure dogs for people with epilepsy or hypoglycaemic & hyperglycaemic alert dogs for people living with diabetes, even where there is a strong evidence base for their efficacy.[12]

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[11] Iong, K.K, et.al., 2022. Australian occupational therapists' knowledge of the purpose, scope, and funding of assistance dogs. Australian Occupational Therapy, Vol.69, pp-64-76.

[12] See especially; Adam Kirton et al, 'Seizure response dogs: Evaluation of a formal training program' (2008) 13(3) *Epilepsy & Behavior* 499, 500-504; Luff, Grace et al, 'The role of trained and untrained dogs in the detection and warning of seizures' (2024) 150 (January) *Epilepsy & Behavior* 109563. Research illustrates that trained dogs can distinguish epileptic seizures from non-epileptic seizures through Volatile Organic Compound ('VOC') profiling.

The Operational Guidelines also exclude funding for a PTSD assistance animal unless the participant's only psychiatric diagnosis is PTSD. The presence of co-occurring conditions is the normal for PTSD, whereby over 78% of people with PTSD will experience at least one additional lifetime mental health condition — and around 50% will experience three or more psychological co-occurring conditions.[13]

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[13] See, eg, Neil P Roberts et al. 'Treatment considerations for PTSD comorbidities' in David Forbes et al (eds), *Effective treatments for PTSD: Practice guidelines from the International Society for Traumatic Stress Studies* (Guilford Press, 3rd ed, 2020) 417, 418–450; Tarik Qassem et al, 'Psychiatric Co-Morbidities in Post-Traumatic Stress Disorder: Detailed Findings from the Adult Psychiatric Morbidity Survey in the English Population' (2021) 92(1*) Psychiatric Quarterly* 321.

Case study: Impacts on D/deaf participants

Replacement Supports

Deaf Australia (member organisation of the consortium led by Australian Federation of Disability Organisations), is concerned that requests for replacement supports are overrepresented amongst people who are D/deaf and hard of hearing. NDIS' report *The Introduction of Defined NDIS Supports, Funding Amounts, Funding Periods and Funding Components- Early Observations on Implementation*[14] shows that during the period July 2024 to July 2025, 11% of requests for replacement supports came from participants with hearing loss, even though this cohort represents only 3% of participants overall. These requests were generally related to technology to support translation and communication. This means that the D/deaf and hard of hearing population of NDIS participants are disproportionally impacted by the application of the rules as applied to replacement supports.

Communication supports

Deaf Australia is also very concerned with reports received that:

- NDIA staff are declining requests for Auslan tuition ('Auslan in the home') supports, risking unnecessary harm to D/deaf participants and their development.
- NDIA staff are providing advice to participants about NDIS Supports
- D/deaf participants have been told by NDIA staff they can *either* access Auslan (Australian Sign Language) tuition ('Auslan in the Home') support *or* speech therapy, but not both.
- D/deaf participants have been told they can *either* access face-to-face interpreting services *or* video interpreting services but not both.

These practices effectively limit participant choice and control and impacts communication options of participants, who may choose to develop both their Auslan signing skills and their speech to communicate with others in everyday life. There needs to be increased recognition that multiple supports may be required for different purposes and in different contexts.

There are also barrier to access where face-to-face interpreters are not always available, or where video remote interpreting (VRI) may not be appropriate in a particular context.

Smart devices and D/deaf communication needs

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[14] P. 22, retrieved from https://dataresearch.ndis.gov.au/, accessed 11 July 2025.

NDIS funding for 'everyday items' is frequently declined or challenged by NDIA staff, even though these items are directly related to a participant's disability support needs. The NDIA is not capable of understanding the extent to which smart devices (including smart watches, smart phones and tablets) function as assistive technology devices.

Deafness Forum Australia advises that one of the largest groups that have tried to access smart devices via replacement supports are participants who are D/deaf or hard of hearing. We also know that the statistics likely do not reflect actual need. We have heard that NDIA planners often dissuade participants from applying for replacement supports. Others are scared that they will have to give up another support they need if they apply for a replacement support.

The NDIA's approach of requiring people with hearing loss or deafness to apply through a separate process for smart devices and "swap these out" against approved supports is inherently inequitable. People with hearing loss or deafness often do not have a choice in how they communicate with the world. They need to have access to a range of options so they can be adaptable to different situations, for example, if an interpreter is not otherwise available.

The resistance from NDIA staff to fund 'everyday items' such as smart devices is having a devastating impact, including on people with hearing loss, creating a barrier to them being able to operate assistive devices and other supports in their everyday lives.

Many D/deaf and hard of hearing participants rely on assistive devices such as front door alerts, vibration alerts, flashing light/vibration pad smoke alarms, Augmentative and Alternative Communication (AAC) enabled phones, messaging and visual notifications in everyday life.

Increasingly, assistive devices used by people who are D/deaf or with hearing loss require smartphone or tablet connectivity to operate the device or to access certain functionality of the device. Modern day assistive technology to support people's hearing (hearing aids and cochleas) is designed specifically to mainstream smart devices which allows for the full utilisation of the hearing aid technology. Examples include:

- For example, a cochlear implant will connect to a smart phone by Bluetooth, which allows the user to use an app on their phone to adjust their cochleas volume.
- A person wishing to access VRI sign language services (which is vital given national shortages in Auslan interpreters) is unable to do so without a device (such as a smartphone, tablet or laptop) that has a microphone, camera and

speakers, and that supports both video interpreting and video platforms (such as Zoom, MS Teams or Facetime).[15]

- People who are D/deaf or hard of hearing use the vibrate function of these devices to know if people are trying to contact them, to alert them to appointments and even to wake up in the morning.

Access to smart devices is viewed by people with hearing loss and deafness as inherently connected to their personal safety – these devices help them to understand and interpret their environment when they can't otherwise seek help by talking to someone. For example:

- Mobile phones allow people with hearing loss to receive emergency text announcements and remain connected to their family and friends. They can text to get help if they need it.
- Smartphones have Global Positioning System (commonly known as GPS) location capabilities which allow people with disability to get help even if they cannot communicate verbally with emergency service personnel.
- Smartphones serve as a multi-purpose digital assistive technology (DigAT) for people with disability, and offer various accessibility features including voice-to-text; text-to-speech; screen magnifiers; captioning; navigation; and colour correction.[16] More than half the global population (4.6 billion) have access to smartphones[17] with disabled people being significantly less likely to have access compared to non-disabled people.[18] The position is similar in Australia.[19]

These tools should not be considered by the NDIA or the support lists any less a form of assistive technology than hearing aids, manual wheelchairs, or white canes. They should not be classed as 'general support items' but rather 'communication access tools' (Auslan interpretation tools, captioning) 'social and community participation tools'

[15] Expression Australia, Video Remote Interpreting, retrieved from Video Remote Interpreting | Expression Australia, accessed 11 July 2025.

[16] The Royal Society, Digital technology, Exploring how data and digital assistive technologies can support independent, fulfilled lives, p. 10, June 2025, retrieved from Disability technology | Royal Society, accessed 9 July 2025.

[17] GSMA. 2024 The State of Mobile Internet Connectivity 2024, retrieved from https://www.gsma.com/r/wp-content/ uploads/2024/10/The-State-of-Mobile-Internet-Connectivity-Report-2024.pdf, accessed 10 July 2025.

[18] GSMA. 2021 The Mobile Disability Gap Report 2021, retrieved from https://www.gsma.com/solutions-and-impact/connectivity-for-good/mobile-for-development/wp-content/uploads/2021/11/Mobile-Disability-Gap-Report-2021.pdf, accessed 10 July 2025.

[19] Australian Bureau of Statistics, Use of information technology by people with disability, older people and primary carers, July 2020, retrieved from https://www.abs.gov.au/articles/use-information-technology-people-disability-older-people-and-primary-carers, accessed 11 July 2025.

(video calling devices) and 'safety tools' (wearable timers, vibration alerts), as appropriate.

There also needs to be increased recognition by the support lists and the NDIA of the importance of Auslan tuition ('Auslan in the Home') supports as reasonable and necessary supports in early intervention therapy delivery and for other participants wishing to access these supports. For people who are D/deaf, access to Auslan is an important early intervention strategy to combat language deprivation, which can cause cognitive delays and mental health difficulties across the lifespan. A report commissioned by Deaf Australia and Deaf Connect estimated that a two-year delay in introducing a D/deaf child to Auslan cost an additional $120,000 in supports over the life of a child.[20]

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[20] Per Capita, Exploring the Benefits of Auslan in Early Intervention Approaches for Deaf Children, retrieved from https://deafaustralia.org.au/statements-papers/exploring-the-benefits-of-auslan-in-early-intervention-approaches-for-deaf-children/, accessed 11 July 2025.