PEOPLE WITH DISABILITY AUSTRALIA

National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 - Supplementary Paper

8 July 2026

People with Disability Australia (PWDA) made a submission to the Senate Community Affairs Legislation Committee recognising the importance of ensuring the long-term sustainability of the National Disability Insurance Scheme (NDIS). We support the objective of maintaining a Scheme that can continue to deliver for future generations of people with disability. However, sustainability cannot be achieved through measures that reduce access to essential supports, weaken safeguards or undermine the rights, safety and participation of people with disability.

PWDA respectfully acknowledges the Committee's Interim Report and the recommendations it contains. However, we do not support Recommendation 4 that the Bill pass in its current form. In PWDA's view, the evidence received by the Committee demonstrates that the Bill requires substantive amendment. Our position remains that the reforms should be evidence-based, subject to full parliamentary scrutiny and developed in genuine partnership with people with disability.

In our original submission, PWDA made 44 recommendations to strengthen the Bill. We continue to support all of those recommendations and consider them necessary to ensure the legislation protects the rights of people with disability while supporting the long-term sustainability of the Scheme.

Adoption of our recommendations would:

- safeguard participant rights, including access to independent review and human oversight of decisions
- ensure that financial sustainability measures cannot override participant safety, dignity, participation and human rights
- limit broad ministerial powers and strengthen transparency and accountability mechanisms
- protect participants from suspension, revocation, or loss of supports due to disability-related barriers
- require that implementation of reforms is contingent on the availability of accessible, funded and operational alternative supports

PWDA acknowledges amendments are under consideration. Amendments adopted should address the breadth of recommendations put forward by PWDA.

This supplementary paper does not replace or narrow our recommendations. Rather, it provides additional evidence and real-world case studies in relation to four areas addressed in our original submission.

The four proposed amendments discussed in this paper are:

Amendment 1 – Ensure continuity to supports and prevent gaps in access

Amendment 2 – Parliamentary oversight of eligibility and funding rules

Amendment 3 – Remove the ‘exhaust all treatments’ requirement

Amendment 4 – Prohibit automated decision-making

This supplementary paper is based on the Bill as introduced and should be read alongside our original submission. Where amendments currently under consideration adequately address issues raised by PWDA, we welcome those improvements. However, we continue to advocate for the adoption of all 44 recommendations contained in our original submission.

Discussion

Amendment 1: Ensure continuity to supports and prevent gaps in access

PWDA's amendment focusses on a commencement safeguard preventing implementation of Bill provisions that reduce eligibility, remove participants from the Scheme, or reduce access to supports until various conditions have been met. It is acknowledged that it may not be practical to delay reforms until all replacement supports are fully operational, therefore it is imperative that other safeguarding options are investigated, using the available evidence for need.

This paper focuses on the following areas:

- Continuity of support
- Demonstrated need
- Preventing adverse outcomes during transition
- Ensuring safeguards do not unintentionally capture people who would naturally exit the Scheme under existing arrangements.

Continuity of support, demonstrated need and preventing adverse outcomes during transition between systems

For people with psychosocial disability, it is established that continuity of support is negatively impacted where alternative systems are unable to efficiently meet need. Research by Tania Shelby-James and Megan Rattray has identified a funding inequity in which supports delivered outside the NDIS through federal and state programs fall well short of those available under the Scheme.[1] The result is unmet need. This has been backed by the Government's own analysis of unmet need in 2024, which found that in the preceding two years, 493,600 people aged 12–64 years with a severe or moderate mental illness who required psychosocial support

[1] Shelby-James, T., & Rattray, M. (2025). The future of psychosocial supports in Australia: Are the recommendations from the National Disability Insurance Scheme Review the answer? *Community Mental Health Journal, 61*(7), 1294–1298. https://doi.org/10.1007/s10597-025-01467-8

were not receiving psychosocial supports through the NDIS or other government-funded programs.[2]

Discontinuing supports when alternative systems are currently failing to meet need will exacerbate the existing issue.

Acceptable evidence that alternative supports are available must demonstrate practical accessibility, not theoretical existence; that is, services that are funded, operational, and with sufficient workforce capacity to meet need in the participant's geographic location without a waitlist. An adequate replacement system is one that delivers equivalent functional outcomes to the support being replaced, at no additional cost to the participant, as a legal entitlement rather than a discretionary provision subject to funding availability.

In their submission, Mental Health Carers Australia pointed to provisions relating to needs assessments reducing the amount of funding received and therefore, impact on support that people with psychosocial disability receive, noting 'the number of people needing psychosocial support will increase and the impact on hospitals will be dire' (p.5).[3] This was corroborated by the Australian Psychosocial Disability Collective who noted that lost support will show up in systems including health systems through increased hospitalisation, homelessness and mental health crises including suicidality (pp.1-2), or in other words, being 'diverted into underfunded systems that cannot provide equivalent individualised assistance' (p.2).[4]

Maintaining support for people with disability also matters for the people who support them. One of the original intentions of the NDIS was to enable workforce participation, including for family carers. As Dickinson and Kavanagh observed in

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[2] Department of Health and Aged Care. (2024). *Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme: Final report* (p. 76). Australian Government. https://www.health.gov.au/resources/publications/analysis-of-unmet-need-for-psychosocial-supports-outside-of-the-national-disability-insurance-scheme-final-report?language=en

[3] Mental Health Carers NSW. (2026). *Submission to the inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (Submission No. 418) [Submission]. Senate Community Affairs Legislation Committee, Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=2fe36a35-59f9-4f1f-8050-130ebb51bdf1&subId=792482

[4] Australian Psychosocial Disability Collective submission. *Submission to the inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (Submission No. 554) [Submission]. Senate Community Affairs Legislation Committee, Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=77ebbdb0-065d-4519-a159-d7893ab58275&subId=791757

2022, a 4% reduction across NDIS plans risked adverse impacts for the family members supporting participants, with reports of carers having to leave the workforce and move onto welfare payments in order to supplement the support their family member lost to the funding cuts; informal support had to step in where formal support left off.[5]

PWDA heard during our recent campaign from members about the benefits of the NDIS and supports to their lives. Participants shared testimony about the life-changing benefits and opportunities that had been enabled through scheme access:

'I'm still here because of the NDIS. Not because I look "disabled enough." Not because I fought harder than anyone else. Because the NDIS funds the supports that keep me safe and alive — even when my disability isn't visible to the outside world.' **Person with traumatic brain injury (TBI)**

'The support my children receive is not a luxury; it prevents crisis, family breakdown, school disengagement, and worsening mental health. Through both my personal and professional experience, I see families already operating at capacity, and I fear that removing supports before genuine alternatives exist will simply shift the burden onto carers, schools, health services, and families who are already struggling to cope.'
Parent of two children who are neurodivergent and NDIS Support Coordinator.

A significant concern around systems transition is participants experiencing premature exit from the Scheme. Robust clinical assessment is essential to ensure any apparent improvement being used as a reason to exit a participant from the Scheme is a **genuine** reduction in need; not a moment-in-time gain, but a gain sustained over the long-term.

Using perceived recovery as a reason to exit a participant warrants close scrutiny. The Australian Psychosocial Disability Collective cautioned that, for people with psychosocial disability of any age, perceived recovery is not a sound basis for natural Scheme exit: there is no clinical basis for treating it as a determination that supports are genuinely no longer required. 'The legislation should not treat supposed

[5] Dickinson, H., & Kavanagh, A. (2022, March 28). *What we know about the NDIS cuts, and what they'll mean for people with disability and their families*. The Conversation. https://doi.org/10.64628/AA.3yxewrr74

"recovery" as a reason to exit people from the Scheme… While the term "recovery," often used in research and debates regarding psychosocial disability, does not explicitly appear in the Bill, its underlying logic is woven throughout the legislative framework in ways that strongly reflect a recovery type model aligned with clinical improvement, treatment compliance, and potential exit from the Scheme' (p.2).[6] The NDIA's own Psychosocial Disability Recovery-Oriented Framework recognises that a person with psychosocial disability can be in 'personal recovery', finding meaning in their life, yet still be experiencing the functional impacts of psychosocial disability because it is fluctuating or episodic, generating ongoing need for supports (Principle 5, p.12).[7]

During our recent campaign, PWDA heard from people who feared falling into this gap:

'My condition is considered permanent by my doctors (specialists) and under current NDIS legislation, however it is a debated and under researched condition that sometimes can see remission (not cure) in a small percentage of patients. While my symptoms have been progressive and are unlikely to improve due to my disability and comorbid conditions, under the new legislation individual circumstances will not be considered. This places people like me who have severe permanent conditions at risk of being mislabeled [sic].' **Person with severe physical and neurological disability (with progressive symptoms)**

Recent research by Choi, Ellem and Drayton has highlighted that the current approach to capacity building within the NDIS may also be insufficient to understand recovery for participants with psychosocial disability, in qualitative and individualised terms (2025, p. 2).[8]

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[6] Australian Psychosocial Disability Collective submission. *Submission to the inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (Submission No. 554) [Submission]. Senate Community Affairs Legislation Committee, Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=77ebbdb0-065d-4519-a159-d7893ab58275&subId=791757

[7] National Disability Insurance Agency. (2021). *Psychosocial disability recovery-oriented framework*. Australian Government. https://www.ndis.gov.au/media/3957/download

[8] Choi, Johnny, Ellem, Kathy, and Drayton, John (2025). *Supporting the recovery of NDIS participants with psychosocial disability: a narrative literature review. Australian Journal of Social Issues 60* (4) 1038-1051. https://doi.org/10.1002/ajs4.70005

Under the current Act, exit can occur when the person no longer satisfies requirements under section 24, or early intervention requirements under section 25. Amendments to section 30 under the NDIS Amendment Bill (Schedule 1, Part 7; Schedule 1, Part 9) relate to CEO powers to revoke eligibility, and neither trigger identified uses 'recovery' as a criterion.

The sequencing of NDIS reform changes around participant exit arrangements and Foundational Supports being ready was identified as a risk in the submission made by State and Territory Disability Ministers, noting that changes go beyond agreed arrangements for Thriving Kids: 'This sequencing risks creating new service gaps, placing preventable pressure on other disability services, universal systems and state-based services. This will exacerbate difficulties people with disability have accessing the services they need' (p. 8).[9]

In the absence of amendments relating to transition of participants between the Scheme and alternative systems including Foundational Supports, bilateral agreements and NDIS rules will be the place where shifts between systems will be formalised.

Recommendation 1: No participant should be exited from the Scheme unless there is demonstrable clinical and service evidence specific to that person that currently available, alternative services and/or supports can meet their need; that is, not a service or support that is planned, under development, funded in-principle, or expected to become available in future. This would sit in Schedule 1, Part 7 and Part 9 with safeguards attached to amendments relating to revoking powers under section 30 and cross-referenced to a participant no longer meeting eligibility criteria under sections 24 and 25.

Recommendation 2: Any reassessment relating to a participant's ability to meet eligibility criteria on an ongoing basis under sections 24 and 25 must be supported by demonstrable clinical evidence of enduring, positive capacity change for that participant, not a point-in-time observation. This requires an amendment to Schedule

[9] State and Territory Disability Ministers. (2026). *Submission to the inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (Submission No. 508) [Submission]. Senate Community Affairs Legislation Committee, Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=bdf67694-ad3b-4d68-a87e-c3989184f552&subId=793974

1, Parts 1, 2 and 8, with connection to safeguarding changes to section 30 suggested under Recommendation 1.

Ensuring safeguards do not unintentionally capture people who would naturally exit the Scheme

Children accessing the NDIS who are affected by natural exit from the Scheme are a significant cohort to consider when ensuring that safeguards created by Bill provisions do not unintentionally capture them. In 2024–25, 14,123 participants left the Scheme. This was 14% above the expected figure of 12,384, and 92% higher than the 7,353 exits in 2023–24. The NDIA attributed these higher-than-expected rates mostly to children aged 0–8 who had entered via the early intervention pathway. Participants who exited the Scheme due to mortality were excluded from the data (NDIA, 2025, pp. 23, 62).[10]

For children, supports build developmental capacity to meet milestones, so Scheme exit can be appropriate once those milestones are met and needs reduce. For these children and their families, unintentional capture within the Scheme caused by safeguarding mechanisms around exit provisions may carry unwelcome consequences. These include ongoing administrative processes around assessment and planning, which place an unnecessary burden on families who may already be stretched for time and capacity. Safeguards are critical to ensure participants are not exited from the Scheme when supports are still needed; however, they must not overcorrect by retaining participants who may be adversely affected by that retention. It is critical to understand: **this does not mean exiting participants before they are ready to exit.**

For example, a family already self-funding services for one child found ineligible for the Scheme might now face funding additional children who are exited under revised policy settings

'We are a single income family, low income at that. We have had to absorb our daughters [sic] therapy costs for the last 4 years as NDIS declined her for early intervention funding whilst other children who presented less than her were granted

[10] National Disability Insurance Agency. (2025). *Annual financial sustainability report 2024–25*. Australian Government. https://www.ndis.gov.au/media/8183/download

funding. Now with the NDIS changes, we are looking at our daughter who is currently on NDIS, to either be removed or funding heavily reduced. We cannot afford any further costs, and the gap we have been trying to bridge on their education because of the lack of supports is going to expand even further!' **Parent of two children with significant but differing needs.**

Recommendation 3: The safeguards proposed in Recommendations 1 and 2 must not unintentionally capture children and families within the Scheme where supports are no longer required. This would likely require a new provision. This could be placed within the early intervention and reassessment provisions, which would establish an exit pathway for children who have genuinely and enduringly met developmental milestones. This would ensure that the evidentiary standard required by Recommendation 2 continues to protect children from premature exit from the Scheme when they still require supports, while also preventing unnecessary retention in the Scheme if they no longer require supports. The bar in both directions must be clinically sound evidence.[11]

Amendment 2: Parliamentary oversight of eligibility and funding rules

PWDA's amendment proposes that the following elements of NDIS functions be established through primary legislation or disallowable legislative instruments subject to parliamentary scrutiny:

- Eligibility thresholds
- Functional capacity criteria
- Funding caps
- Support reduction frameworks
- Alternative support arrangements

The safeguards necessary to govern support reduction frameworks and alternative support arrangements are addressed through Recommendations 1 and 2 in

[11] Cautionary note: Recommendations 1-3 relate to the standard of evidence required before an exit or retention decision is made, not to the method by which that evidence is gathered. Together, the recommendations should not be taken as an overarching recommendation for a new assessment tool to be developed for clinical evidence gathering.

Amendment 1, which establish the clinical evidence standard required before any participant exits or transitions from the Scheme. Amendment 2 builds on those safeguards by addressing the mechanism through which rules governing these elements are made and scrutinised.

The current mechanism is structurally inadequate. Under section 209 of the National Disability Insurance Scheme Act 2013, the Minister may make NDIS rules by legislative instrument. Primary legislation requires deep scrutiny upon introduction into Parliament; NDIS rules do not carry the same obligation. Parliament is being asked to vote on NDIS reform without sight of the rules that will drive those changes, and people with disability and their supporters are being asked to trust a process that offers no structural assurance against harm. Compounding this, NDIS rules are excluded from sunsetting provisions because they operate under an intergovernmental process, meaning there is no mechanism that requires rules to be re-tabled and tested for whether they remain fit for purpose for the people they affect, and rights compliant.

The consequences of this inadequacy are already evident. In 2024, implementation of the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* created significant problems for participants. The NDIA's own post-implementation analysis acknowledged failures that more thorough parliamentary scrutiny prior to rule implementation may have prevented, primarily in relation to the NDIS support lists. Around fifty separate guidance documents and FAQ were issued after rules took effect on 3 October 2024 to address confusion and provide clarification, many not released until late in the year and some matters still unresolved at year's end.[12] With proper scrutiny beforehand, much of the resulting confusion and harm could have been anticipated.

Participants felt the impacts of the changes immediately:

'I would be in a care home without NDIS support, and I definitely wouldn't have the quality of life I have today. However, since changes rolled out in November 2024, items and resources essential to my well being are no longer accessible through the

[12] National Disability Insurance Agency. (2025). *NDIS reform evaluation: Summary report on the first three months*. Australian Government. https://dataresearch.ndis.gov.au/research-and-evaluation/evidence-helps-us-improve-ndis/ndis-reform-evaluation

NDIS. These are not items I want; they are items I need to assist with my lack of functional capacity (if I were not like this I wouldn't purchase or use these items) and assist me in maintaining my independence. Because I need these items I am now having to pay for them myself, which reduces the quality of food I eat and supplements that I'm supposed to take. What has started out as a life changing system is now slowly destroying my quality of life, should my support hours be reduced domestically and social and community access I am very worried that I will almost end up back where I started with being housebound.' **Person with myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS).**

Another participant described how previous funding cuts shifted the cost of supports and aids onto them and their family. It also forced a change in their housing circumstances so their needs could be met.

'The help the NDIS provided in 2020 was incredible. They covered psychology, physiotherapy, OT, dietician, a support worker as well as aids such as noise-cancelling headphones.

However I have slowly had funding cut. It has been difficult to prove that my POTS and EDS are permanent disabilities to the NDIS - despite all scientific evidence suggesting they are incurable, serious and incapacitating (and can even have deadly complications, such as CCI, anaphylaxis from MCAS, heart issues, stroke risk, fainting on a staircase or suicidality due to very low quality of life). Coupled with a lack of recognition by the PBS, this has meant my medication and mobility aids - from vasoconstrictors, mast-cell stabilisers, compression leggings and wheelchair - I paid for myself with the aid of my parents.

Since these cuts to my plan, I have moved back in with my parents, and lost physiotherapy which helps with mobility and chronic pain. I also lost my dietician who helped me with autistic eating habits, mast-cell allergies and salt intake. I have lost most work and social life. I lost a relationship to carer's burnout.' **Person with autism, ADHD, FND, POTS, CPTSD, OCD, hypermobility and mast cell activation issues.**

These are not isolated experiences. They are the predictable consequence of rules that carry significant policy weight, yet they are not appropriately scrutinised prior to implementation.

In 2024, in its scrutiny of earlier reforms, the Senate Standing Committee for the Scrutiny of Bills raised heightened concerns with NDIS rules lacking the scrutiny of primary legislation, purely because they operate under an intergovernmental process and are therefore excluded from sunsetting provisions meaning there is no expiry date triggering automatic review of rules (p. 27).[13] The concern relates to the rule-making powers within the NDIS Act: the Committee posited that rules carrying 'significant policy matters' would be more appropriately handled through primary legislation, without the limited scrutiny that sunsetting provisions provide (p. 28).[14]

Changes to NDIS rules require proper parliamentary scrutiny prior to implementation. This is how readiness is assessed. This must be a transparent process, with people with disability, their families, carers and other supporters, and their representative organisations able to see what oversight has taken place and what actions were taken as a result of it. There must also be a safeguard provision that no participant is left without support because of rule changes. That is, where an alternative service is not currently available, or where Foundational Supports are not yet developed and functional, a participant must not be removed from the Scheme.

Recommendation 4: Statements of Compatibility for NDIS rules made under section 209 must be subject to assessment by the Parliamentary Joint Committee on Human Rights as a precondition to rules taking effect. Ministerial self-assessment does not constitute independent scrutiny; the Committee's assessment must occur before implementation, not concurrently with or subsequent to it. Prior to that assessment, meaningful consultation must have been undertaken with people with disability and their representative organisations, with evidence of that consultation and any resulting changes documented and publicly available.

[13] Senate Standing Committee for the Scrutiny of Bills. (2024). *Scrutiny digest 6 of 2024* (pp. 27–28). Parliament of Australia. https://www.aph.gov.au/-/media/Committees/Senate/committee/scrutiny/scrutiny_digest/2024/d6_24.pdf
[14] Ibid.

Recommendation 5: NDIS rules that carry significant policy powers under the NDIS Act should be elevated to primary legislation, subject to full parliamentary scrutiny. Where rules must remain as delegated legislation, sunsetting provisions must apply without exception, including where an intergovernmental process is involved. The current intergovernmental exclusion from sunsetting is not a legitimate basis for removing parliamentary oversight; it is a structural loophole that allows rules with material consequences for people with disability to operate indefinitely without review. At each sunset trigger, the scrutiny standards established under Recommendations 4 and 6 must apply.

Recommendation 6: Parliamentary scrutiny of NDIS rule changes must include a formal human rights analysis against relevant international instruments, applied proportionately to the scope and nature of each rule change. This must be published. In the absence of a federal Human Rights Act, the applicable instruments are (all ratified except UNDRIP, which is endorsed):

- Convention on the Rights of Persons with Disabilities (CRPD)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- Convention on the Rights of the Child (CRC): where participants are children or rules affect families with children with disability
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): where rule changes produce gendered impacts, including on women with disability and unpaid carers
- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT): where support restrictions expose participants to neglect, abuse, or degrading conditions, particularly in residential or institutional settings
- United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP): where rule changes disproportionately affect First Nations participants.

Recommendation 7: No rule should proceed where modelling demonstrates it would leave any participant without supports they require, where: (a) no appropriate alternative supports outside the NDIS are currently available to them; or (b) the

relevant Foundational Supports have not yet been developed and are not yet functional. It is recommended that the modelling be undertaken by the Productivity Commission, which has established institutional history with NDIS analysis and reports to Parliament, rather than to the responsible Minister. Where the Productivity Commission is unavailable or has a conflict of interest, the modelling must be conducted by a body approved by the relevant Parliamentary committee, not nominated by the Minister. The methodology and findings must be publicly available before any rule takes effect.

Amendment 3: Remove the "exhaust all treatments" requirement

Under the NDIS Amendment Bill, Schedule 1, Part 8 (new s 25A) proposes that a person must exhaust all appropriate treatment options before an impairment can be found permanent, regardless of whether treatment is financially or geographically accessible.

PWDA has noted the need to distinguish between:

- compelling a person to undertake treatment
- creating circumstances where a person is effectively required to undertake treatment in order to avoid losing supports
- creating a situation where people technically retain a choice but still experience significant pressure to pursue treatment, where declining results in reduced access to support.

Under the UNCRPD, Article 17 specifically protects the right to physical and mental integrity on an equal basis with others, a right that is directly engaged when the State conditions access to support on a person having undergone medical treatment.[15] The Australian Law Reform Commission confirmed in Equality, Capacity and

[15] United Nations. (2006). *Convention on the Rights of Persons with Disabilities*, Article 17. https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/article-17-protecting-the-integrity-of-the-person.html

Disability in Commonwealth Laws (p. 282)[16] that competent adults have an established common law right to refuse treatment. The Australian Charter of Healthcare Rights affirms the right to make informed decisions, including about the risks of treatment. [17] A provision that penalises a person for exercising that right has no place in legislation that purports to be consistent with the Convention.

During the final day of public hearings by the Senate Committee on Community Affairs, Acting First Assistant Secretary, Department of Health, Disability and Ageing, Ms Erin Rule confirmed participants would not be forced to take treatments named by the NDIA.[18] That assurance does not extend to treatments named by the medical professionals whose evidence underpins an eligibility application.

PWDA has heard about the challenge facing people with disability who have no clear treatment pathway, and for whom experimental treatments may offer no real benefit. For these participants, a requirement to exhaust all appropriate treatment could in effect compel them into experimental trials. This raises the question of what risk threshold applies under this criterion, and what evidence of treatment efficacy, weighed against the risk of adverse effects or complications, will be required.

'I live with Hypermobile Ehlers-Danlos Syndrome (hEDS), a severe genetic connective tissue disorder that causes joints throughout my body to dislocate — sometimes multiple times a day. hEDS causes progressive joint instability, spinal degeneration, mobility impairment, disabling fatigue, and widespread systemic complications.

There is no standardised treatment for my condition. Much of my life has become an exhausting cycle of surgeries, hospital admissions, experimental procedures, rehabilitation, and pain management that may or may not work. I spend months

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[16] Australian Law Reform Commission. (2014). *Equality, capacity and disability in Commonwealth laws* (ALRC Report 124). Australian Government. https://www.alrc.gov.au/publication/equality-capacity-and-disability-in-commonwealth-laws-alrc-report-124/

[17] Australian Commission on Safety and Quality in Health Care. (2019). *Australian charter of healthcare rights* (2nd ed.). https://www.safetyandquality.gov.au/resources/australian-charter-healthcare-rights-second-edition-a4-accessible

[18] Community Affairs Legislation Committee. (2026, June 9). *National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* [Official committee Hansard] (p. 52). Parliament of Australia. https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommsen%2F29695%2F0001%22

every year in hospitals hoping the next intervention might stabilise my body enough to preserve some quality of life - or at bare minimum, stop my arms and legs from dislocating off my body.

As the degeneration worsens, I face increasing loss of mobility, permanent reliance on a wheelchair I am yet to receive funding for, and serious long-term complications associated with this disease.'

For participants who are Deaf, treatment options such as cochlear implants or other artificial sound enhancement like hearing aids can be deeply at odds with a strong sense of cultural identity, rooted in a primary language of Auslan (Australian Sign Language) or other sign languages.

Chief Executive Officer of Disability Advocacy Network Australia (DANA) reflected on the concern for people who are blind in the Inquiry hearing: 'this notion of appropriate treatment is terrifying to me personally, because, if someone said to me tomorrow, 'You can have your sight back,' I don't know that I'd want it—but I also want the NDIS, and I think I should have the right to choose. Secondly, for people who have acquired their impairment recently, who are grieving—because it is a grief process—and who are often traumatised, to even be asked those questions is deeply, deeply distressing for many people' (p. 52).[19]

Recommendation 8: Schedule 1, Part 8 of the *National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* should be amended to insert a new subsection 25A(2A) qualifying what constitutes appropriate treatment for the purposes of the permanence test. As currently drafted, section 25A(2) provides that treatment may be appropriate regardless of whether a person's individual circumstances restrict their access to it. This creates a provision that can deem treatment appropriate regardless of whether it is accessible or affordable for the individual, with no requirement that it also be culturally safe or available within a reasonable timeframe. A new subsection 25A(2A) should provide that, despite subsection (2), treatment is not appropriate treatment for the purposes

[19] https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Fcommsen%2F29695%2F0001%22

of this section unless, having regard to the person's individual circumstances, the treatment is:

a) accessible to the person, including having regard to their geographic location;

b) affordable, including having regard to their financial circumstances;

c) culturally safe; and

d) available within a reasonable timeframe that does not result in a gap in support or deterioration of the person's condition.

Recommendation 9: Schedule 1, Part 8 of the *National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* must be amended to make clear that the permanence test under sections 24 and 25 is not a treatment mandate. The assurance given at the Senate Committee hearing, that the NDIA will not direct participants to undertake treatment, does not cover treatments recommended by the medical professionals whose evidence supports an eligibility application.

As drafted, requiring a person to have undertaken all appropriate treatment in order to meet the permanence test places pressure on them to pursue treatment in three ways, each at odds with the right to physical and mental integrity under Article 17 of the CRPD:

a) where a person is directly required to undertake treatment;
b) where a person is effectively required to undertake treatment to avoid losing supports; and
c) where a person keeps a nominal choice but faces real pressure to pursue treatment, because declining means reduced or lost supports.[20]

Amendment 4: Prohibit automated decision making

Schedule 3, Part 2 sets out the automated decision-making provisions for the Scheme, which will take effect under a new section 59. It will give the CEO express

[20] Cautionary note: A person who risks losing their NDIS supports if they decline treatment does not have a genuine choice about whether to undertake that treatment. The Bill should make clear that declining treatment cannot, by itself, be the reason a person loses or has their supports reduced, provided they otherwise meet eligibility criteria.

statutory authority to arrange automated administrative action under their oversight, while keeping decisions that involve judgement or discretion in human hands, and allowing the Minister to expand what can be automated through later legislative instrument.

The Justice and Equity Centre (JEC) noted in its supplementary submission to the inquiry that any use of automated decision-making must be 'tightly constrained and subject to robust safeguards'.[21] The JEC recommends that the designation of provisions for automated decision-making under proposed s 59C(1) be confined to the discrete functions for which automation is justified, rather than extending to entire sections of the Act.

In plain terms, this means a computer program should not be permitted to decide what supports a participant receives in their old framework plan. That approval decision, made by the CEO under s 33(2) must remain a human decision, not one made by a computer. Automation should reach only the narrow, mechanical task of sorting approved supports into groups under s 33(2E), which is the single function the Explanatory Memorandum justified (p.131).[22]

The case of Rhys Cauzzo, examined by the Royal Commission into the Robodebt Scheme, shows what can happen when an automated system removes a safeguard that should have protected a person at risk.[23]

Rhys Cauzzo was a young Melbourne man who lived with anxiety and depression. He relied on the social security system, and at the time of his death he was claiming the Disability Support Pension. His mother, Jennifer Miller, gave evidence to the Royal Commission into the Robodebt Scheme about what happened to him.

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[21] Justice and Equity Centre. (2026). *Supplementary submission to the inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (Submission No. 82.1 [Supplementary Submission]. Senate Community Affairs Legislation Committee, Parliament of Australia. https://www.aph.gov.au/DocumentStore.ashx?id=e30270c0-920c-4de2-a13e-57cc965d5066&subId=790078

[22] Parliament of Australia. (2026). *Explanatory memorandum: National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (p. 131). Commonwealth of Australia. https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr7487_ems_35e6531f-c440-4faf-98d6-7c7ddd8bd539%22

[23] Royal Commission into the Robodebt Scheme. (2023). *Report of the Royal Commission into the Robodebt Scheme* (pp. 182, 354). Commonwealth of Australia. https://robodebt.royalcommission.gov.au/publications/report

Centrelink uses a marker on a person's record to indicate that a person is experiencing complex personal circumstances called a vulnerability indicator. For Mr Cauzzo, this indicator was on his Centrelink between 2010 and 2012 (p. 354). It was reviewed and ended without evidence for any change in circumstance in February 2012.

In September 2015, during an assessment for his Disability Support Pension claim, Centrelink's own assessor recorded that Rhys had anxiety and depression and had reported suicidal ideation (p. 354), which should have triggered the vulnerability flag being put back on his file; it did not happen.

In May 2016, Robodebt's automated system selected Rhys for a compliance review. At the time, even though Centrelink held information showing he was at risk, his record did not have a vulnerability flag (p. 354). As a result, the system triggered contact to hm own debt. Over the following months he received a stream of letters and calls, and his debts were handed to a private debt collector, who contacted him many more times. Rhys took his own life on 26 January 2017.

The Royal Commission was clear that a vulnerability flag should have been on his file, and that if it had been, it would have triggered extra responsibilities in how Centrelink dealt with him, including exercising caution before taking compliance action and taking his vulnerability into account (p. 182). Mr Cauzzo was failed at two points, one automated and one human: a flag removed automatically, and a known risk never recorded. Two simple safeguards would have changed the outcome: a flag that cannot be switched off automatically, and a requirement that a documented risk, such as a recorded diagnosis and suicidal ideation, be carried onto the record before any automated process acts on the case.

Recommendation 10: Schedule 3, Part 2 of the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 should be amended to provide that a computer program must not be used to remove, suspend, expire or override any safeguard, flag or indicator that protects a participant identified as vulnerable or at risk, or that determines whether a decision receives human consideration. The removal of any such protection should require a decision by a human delegate. Where the Agency holds information indicating that a

participant is at risk or vulnerable, that information should interrupt automated processing and route the matter to a human delegate.

Recommendation 11: Before any automated decision-making system is implemented under Schedule 3, Part 2, it should be tested to confirm it correctly identifies and protects participants who are vulnerable or at risk, including how it handles incomplete records and conflicting information. The system also requires safeguards for redirecting decisions that should be handled by a human delegate. The methodology and results of that testing should be documented and made available to the relevant Parliamentary committee before the system takes effect.