

DISCUSSION PAPER ON

**NATIONAL DISABILITY
INSURANCE SCHEME
AMENDMENT (SECURING THE
NDIS FOR FUTURE
GENERATIONS) BILL 2026**



OTSi



OTSi Discussion Paper

Senate Community Affairs Legislation Committee Inquiry

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

About this paper

This discussion paper has been prepared to support our community in understanding the recently introduced NDIS Bill and its implications for the future of the NDIS. It reflects an initial effort to unpack the legislation, highlight key elements, and identify emerging areas of both significance and concern.

As an early-stage document, it does not represent the official OTSi position on the new NDIS Bill. Rather, it is intended to open space for shared exploration, analysis, and discussion. Our understanding will continue to evolve over the coming week through ongoing consultation with members, broader engagement with the disability community, and the seeking of independent legal advice.

The purpose of this paper is to contribute to a clearer and more accessible interpretation of the Bill and the policy approach it represents. We encourage members to read it carefully, reflect on its contents, and provide feedback by close of business Thursday May 21st. We also support and encourage you to take further action where you believe it is necessary.

Introduction

On 14 May 2026, the Senate referred the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 to the Community Affairs Legislation Committee for inquiry and report. Submissions close on 29 May 2026, with the Committee due to report on 16 June 2026.

Occupational Therapy Society for Hidden and Invisible Disability (OTSi) welcomes the opportunity to provide this discussion paper in response to the proposed amendments. OTSi is deeply concerned that the Bill represents one of the most significant restructures of the National Disability Insurance Scheme (NDIS) since its inception, with profound implications for disabled people, families, therapists, support providers, and broader community systems.

The proposed reforms follow a Federal Budget announcement confirming that \$37.8 billion less funding will be allocated to the NDIS over the next four years. The Government now projects the NDIS will cost \$56.5 billion by 2030 rather than the previously projected \$70 billion. The stated policy objective of the legislation is therefore clearly linked to reducing Scheme expenditure.

OTSi acknowledges the importance of ensuring the long-term sustainability of the NDIS. However, sustainability cannot be achieved by reducing access to essential supports, narrowing eligibility, weakening safeguards, and transferring costs onto disabled people, unpaid carers, state systems, and already overstretched health services.

The NDIS Act establishes that the Scheme is intended to:

- support people with disability to pursue their goals and aspirations;
- facilitate participant choice and control; and
- provide reasonable and necessary supports based on individual needs.

OTSi is concerned that the Bill departs significantly from these foundational principles. Rather than strengthening individualised and person-centred decision-making, the proposed amendments move the Scheme further toward standardised, reductionist, and fiscally driven approaches to disability assessment and support allocation.

The proposed amendments create substantial risks for disabled Australians, particularly:

- tightening eligibility criteria;
- redefining permanence and functional capacity;
- expanding Ministerial powers with limited oversight;
- enabling broad funding reductions across participant groups;
- increasing reliance on unpaid informal supports;
- reducing access to therapy and community participation supports;
- introducing automated decision-making powers;
- weakening reassessment safeguards; and
- creating pathways for participants to lose access to the Scheme without meaningful procedural protections.

OTSi is particularly concerned that these changes are being advanced in the absence of:

- fully developed foundational supports outside the NDIS;
- adequate consultation with disabled people and the disability sector;
- robust human rights impact assessments;
- clear modelling of impacts on First Nations communities, women carers, rural and remote participants, culturally and linguistically diverse communities, and people with complex disability;
- clear identification of mitigation strategies and safeguards to address any foreseeable risks identified through impact analysis, including how negative outcomes for participants, families, and support systems would be prevented, reduced, or responded to if they arise during implementation.
- evidence regarding the likely downstream costs to hospitals, mental health systems, homelessness services, education systems and aged care systems.

In particular, OTSi is concerned that the Bill continues long-standing administrative challenges in operationalising “functional capacity” within the Scheme. These challenges have already had substantial impacts on:

- participant access to supports;
- safeguarding outcomes;
- consistency and fairness of planning decisions; and
- long-term Scheme sustainability.

Recent legislative reforms implemented in 2024, together with the proposed New Planning Framework and associated functional capacity reforms, indicate a regression toward impairment-based approaches that risk undermining the original vision of the NDIS. OTSi submits that this shift weakens both equity and efficiency, reduces the capacity to tailor supports to individual circumstances, and ultimately diminishes the Scheme’s ability to allocate funding fairly, accurately, and cost-effectively.

The disability community is already reporting escalating distress, fear, and increased contact with suicide prevention and mental health crisis services following the Budget and legislative announcements. This reflects the seriousness of the proposed changes and the profound uncertainty being experienced by disabled Australians.

While direct cuts to therapy are deeply concerning, they are only one component of a broader package of reforms that collectively risk reshaping the Scheme away from its original intent. OTSi is particularly concerned about:

- the proposed tightening of eligibility for the NDIS;
- the redefinition of permanence of disability and functional capacity;
- the introduction of new functional capacity assessment models;
- cuts to social and community participation supports;
- expanded powers to impose broad funding reductions;
- increasing reliance on private payment for disability supports despite the majority of participants living on fixed incomes, including the Disability Support Pension;
- the absence of meaningful foundational supports outside the NDIS.

OTSi submits that the Bill should not proceed in its current form. At minimum, implementation should be delayed until meaningful consultation occurs, comprehensive impact assessments are completed, and alternative support systems are properly established and funded.

Schedule 1: Access and Planning

1.1 Functional Capacity Definition

The Bill proposes a new definition of functional capacity which assesses what a person can do:

- without assistance from other people;
- without assistive technology or modifications; and
- excluding, as far as possible, environmental and personal circumstances.

OTSi is concerned by this proposed definition. Disability does not occur in isolation from environmental, social, cultural, geographical, financial, and relational factors. Excluding these realities from assessment risks creating an artificial and inaccurate understanding of disability and support need.

The proposal appears inconsistent with the social model of disability underpinning both the NDIS and Australia's obligations under the Convention on the Rights of Persons with Disabilities.

Frameworks such as the World Health Organization's International Classification of Functioning, Disability and Health (ICF) recognise that disability arises through the interaction between impairments; environmental factors; participation barriers; support systems; and personal circumstances.

OTSi is concerned that the proposed legislative approach departs from this evidence-based framework by excluding environmental and personal factors from the definition of functional capacity.

The assessment of function, functional ability, and functional capacity - and the translation of these findings into tailored support recommendations - is a core competency of occupational therapy and other allied health professions. This reflects internationally recognised expertise in evaluating how individuals function within their environments and how supports can mitigate risk and promote participation.

The NDIS Review repeatedly identified that poor decision-making driven by inadequate assessment of functional capacity and support needs increases participant harm and drives higher Scheme costs. The Review recommended that assessment processes allow for evidence from a range of sources, including treating professionals.

Both Australian and international evidence consistently demonstrate that robust health professional evidence is fundamental to: accurately identifying disability support needs; preventing harm; reducing avoidable adverse events; and supporting safe and effective planning outcomes.

OTSi is deeply concerned that the Bill, combined with the emerging New Planning Framework, may diminish the role of participant-provided disability and allied health evidence in favour of standardised administrative assessment models.

1.2 Activities “as a Whole” and Whole-of-Person Assessment

The Bill changes the assessment approach from isolated tasks to considering activities “as a whole”.

OTSi is concerned that this wording may disadvantage people with cumulative or intersecting impairments. The current framework allows consideration of how multiple disabilities interact functionally. The proposed amendments risk reversing this “whole person” approach.

For example, a participant may require mobility equipment due to the combined effects of vision impairment and musculoskeletal disability, even where neither impairment independently explains the need. The proposed framework may fail to recognise these interacting impacts.

If a support needs assessment tool such as ICAN is used to capture support needs in a broad, holistic manner, but funding must ultimately be allocated only to recognised impairment categories or functional domains, the integrity of comprehensive assessment risks being compromised.

The interactive effects of multiple impairments may be underestimated, and support needs that cannot be neatly attributed to a recognised impairment may be excluded.

This raises significant clinical and ethical concerns regarding:

- how holistic functional and support needs assessment can be reconciled with reductionist impairment-based funding allocation models;
- whether safeguards will preserve the integrity of comprehensive assessment;
- how urgent or significant support needs arising from interacting impairments will be addressed.

OTSi recommends retaining legislative recognition of cumulative and intersecting disability impacts.

1.3 Functional Capacity, Disability Evidence, and Safeguarding

The proposed amendments significantly expand the role of functional capacity assessment within NDIS access, planning, reassessment, and funding decisions.

OTSi is concerned that the Bill embeds an increasingly reductionist approach to functional capacity that risks oversimplifying disability, excluding critical contextual factors, and weakening safeguarding protections.

Further issues in operationalising functional capacity include:

- reliance on under-qualified or non-clinical workforces to make complex determinations regarding disability-related functional capacity and support needs;
- limited Scheme infrastructure and information management systems capable of storing, interpreting, and applying disability evidence consistently;
- lack of transparency regarding assessment methodologies and impairment categorisation processes;

The Explanatory Materials provide limited detail regarding:

- how impairment categories will be determined through functional capacity assessment;
- how existing evidence held by the Agency will be used;
- whether clinical judgement, administrative guidance, or algorithmic systems will inform categorisation;
- how consistency across delegates and regions will be ensured.

Given the central role impairment categories will play under amended section 34, the absence of procedural detail represents a significant governance and transparency gap.

1.4 Self-Management and Executive Function

The Bill and associated reforms appear to narrow understandings of functional capacity in ways that may inadequately recognise executive functioning impairments and support needs associated with self-management.

Within the NDIS legislative context, self-management includes a participant's ability to:

- plan and sequence activities;
- organise routines and schedules;
- manage appointments;
- initiate and complete tasks;
- regulate behaviour and emotions;
- coordinate supports;
- navigate systems; and
- manage resources and daily living demands.

These functions are frequently impaired for participants with:

- autism;
- cognitive disability;
- acquired brain injury;
- intellectual disability;
- psychosocial disability; and
- neurological conditions.

OTSi is concerned that snapshot-style assessment models may underestimate these functional and support needs while focusing on essential personal care activities, particularly where participants present inconsistently or mask disability impacts during formal assessments.

1.5 Tightening of Permanence and “Appropriate Treatment”

The Bill introduces a significantly stricter permanence test requiring participants to undertake “all appropriate treatment” before impairments may be considered permanent.

The proposed definition states that treatment may still be considered “appropriate” regardless of:

- financial barriers;
- geographical location; or
- a participant’s capacity to access treatment.

OTSi considers this deeply problematic and potentially discriminatory.

Many disabled people cannot realistically access recommended treatment due to:

- poverty;
- workforce shortages;
- transport barriers;
- inaccessible healthcare systems;
- communication barriers;
- lack of culturally safe services;
- inability to tolerate treatment environments;
- trauma; and
- lack of available specialists.

The proposal also raises serious concerns regarding bodily autonomy and informed consent. The legislation currently only exempts treatment that cannot be undertaken for medical reasons.

OTSi submits that individuals must retain the right to refuse treatment without losing access to disability support.

The requirements for documentation of appropriate treatment does not acknowledge the disability related barriers which result in an inability to provide evidence of past treatment or access historical records. This may include situations where individuals are unable to contact previous practitioners, where services have closed or changed practice, where records have been lost, or where parents, carers, or other key support people who held this information are deceased or otherwise unavailable. Other situations where individuals are unable to reconstruct or substantiate treatment history due to disrupted life circumstances, include homelessness, trauma, domestic and family violence, incarceration, cognitive or psychosocial disability, disorganisation associated with disability, or events such as natural disasters (for example house fires) that have resulted in loss of documentation or continuity of care, despite the person having previously engaged in treatment or support

The way that the proposed legislation is currently framed may result in capacity-building interventions being included as a form of “treatment” that participants are expected to undertake prior to being considered eligible for access to the NDIS. This creates a foreseeable risk that capacity-building supports, which are intended to be part of the NDIS response to disability rather than a prerequisite for entry, may be

reinterpreted in a way that shifts responsibility for functional improvement onto the individual before access is granted. There is also a related concern that, if this interpretation is applied, it may inadvertently reduce access to capacity-building supports within the NDIS itself, despite these supports being a core component of how participants maintain function and participation over time.

Upon access, there are also concerns regarding future limiting of therapies aimed at maintenance and capacity preservation. Many disabilities are lifelong and degenerative. Therapy often aims to:

- maintain function;
- prevent deterioration;
- preserve participation;
- reduce hospitalisation; and
- reduce carer burnout.

1.6 Plan Reassessments and Suspension Powers

The Bill significantly restricts reassessment processes by:

- extending decision timeframes from 21 days to 90 days;
- limiting who may request reassessment;
- imposing stricter evidentiary requirements; and
- narrowing what counts as exceptional circumstances.

OTSi is deeply concerned about the practical consequences of these changes. Disabled people often experience rapidly changing circumstances, including housing instability; sudden deterioration; and loss of informal supports.

The requirement that changes be “unanticipated” may create barriers in situations where deterioration was foreseeable but still devastating, such as the death of a terminally ill parent or escape from domestic violence.

The Bill also allows plans to be suspended where the Agency “cannot contact” a participant. This proposal presents serious safeguarding risks.

OTSi asks the Committee to consider:

- Deaf participants who cannot hear phone calls;
- blind participants who cannot read inaccessible correspondence;
- autistic participants overwhelmed by administrative communication;
- participants with psychosocial disability experiencing periods of disengagement or paranoia ; and
- people experiencing homelessness or family violence who have changed phone, email and residence.

Many participants have already informed the NDIA of preferred communication methods but continue to experience inaccessible communication practices.

Suspending or revoking plans because contact was unsuccessful risks exposing participants to neglect; homelessness; hospitalisation; institutionalisation; mental health crisis; and suicide risk.

OTSi submits that no participant should lose supports without:

- demonstrated accessible communication attempts;
- independent safeguarding review;
- welfare checks where appropriate;
- alternative supports in place; and
- consideration of participant safety.

1.7 Funding Cuts and Ministerial Powers

The Bill grants the Minister extraordinarily broad powers to reduce funding for specified groups through support determinations.

OTSi is extremely concerned that:

- there are minimal legislative safeguards;
- reductions can apply across broad participant categories;
- cuts may reduce funding below actual support costs; and
- the legislation provides limited transparency, appeal and accountability mechanisms.

This creates the possibility of substantial cuts targeting particular cohorts, impairments, ages, or support categories.

Proposed section 34A would create an extraordinary power permitting across-the-board percentage reductions to funding components in “old framework plans” for reasons of “financial sustainability”, without any requirement for:

- individual reassessment of reasonable and necessary supports;
- consideration of participant safety;
- assessment of functional impact; or
- analysis of risks arising from funding reduction.

This represents a significant departure from the foundational principles of the NDIS, which are intended to be based on individualised assessment of disability support needs rather than arbitrary fiscal measures.

A blanket percentage reduction mechanism risks undermining continuity of essential supports, including therapy; community participation; assistive technology; and home modifications.

The consequences for participant wellbeing, independence, safeguarding, and long-term outcomes may be severe.

OTSi is particularly concerned that broad percentage reduction powers could disproportionately impact:

- First Nations participants;
- rural and remote participants;
- women carers;
- people with psychosocial disability;
- participants requiring high levels of informal support; and
- children requiring early intervention.

The explanatory materials themselves acknowledge risks relating to:

- gender equity;
- Closing the Gap outcomes;
- increased reliance on unpaid female carers; and
- safeguarding risks associated with reduced supports.

OTSi submits that proposed section 34A should be withdrawn from the Bill.

If Parliament nevertheless proceeds with section 34A, the Bill must explicitly amend section 209(8) of the NDIS Act to classify any determination made under section 34A as a Category A NDIS Rule, ensuring states and territories must agree before such a reduction instrument can take effect.

OTSi further submits that any powers allowing:

- changes to permanence definitions;
- changes to functional capacity thresholds;
- reductions to funding categories; or
- support determination percentages

should be designated as Category A Rules requiring agreement from states and territories.

Schedule 2: Fraud and Integrity

OTSi supports appropriate measures to prevent fraud, exploitation, and misuse of public funds. Participants deserve a Scheme with strong integrity protections.

However, OTSi is concerned that several proposed powers are excessively broad and, without moderation, may create fear, surveillance, and over-policing of disabled people and providers.

The Bill introduces expanded monitoring and investigation powers; civil penalties; search and seizure powers; and broader information sharing for criminal investigations.

OTSi is particularly concerned that information obtained from participants may be used in criminal investigations despite many disabled people:

- experiencing cognitive barriers;
- relying on nominees;
- having communication difficulties; and
- requiring support to understand compliance obligations.

The expansion of nominee penalties also risks discouraging family members from acting as nominees.

OTSi recommends:

- stronger independent oversight;
- accessible compliance processes;
- safeguards against disproportionate enforcement; and
- co-design with disabled people regarding integrity measures.
- Funding for advocacy organisations to support individuals with disabilities who need to respond to these requests.

Schedule 3: Governance

3.1 Pricing Powers

The Bill gives the Minister power to set maximum NDIS prices through legislative instrument.

OTSi is concerned that pricing mechanisms may increasingly prioritise budget reduction over participant need and market sustainability, particularly in the absence of an independent pricing such as IHACPA overseeing pricing regulation.

There are already significant workforce shortages across occupational therapy and allied health. Capped pricing without adequate consultation may further destabilise the workforce and reduce service availability. Capping home modifications and assistive technology may also result in reduced access to these supports or force co-payments for a cohort already on low income without means to self-fund such supports.

3.2 Automation and Decision-Making

The Bill authorises automated administrative action and decision-making, including the exercise of discretion and evaluative judgement. OTSi recognises that automation may assist with low-risk administrative processes. However, the legal authority created by the Bill is extremely broad.

There are serious risks if automated systems are used in:

- functional capacity assessment;
- eligibility decisions;

- reassessment determinations; and
- support needs determination and funding allocation.

Disability assessment requires nuanced clinical judgement and understanding of context; communication; trauma; culture; and fluctuating presentation.

OTSi is particularly concerned by provisions stating that failure to comply with safeguards does not affect the legal validity of automated decisions. This undermines procedural fairness and accountability.

The rollout of the Integrated Assessment Tool (IAT) within the aged care Support at Home program provides a cautionary example for the proposed NDIS Support Needs Assessment model.

In aged care, support allocations are increasingly determined through classification algorithms that assessors cannot override. Responses are scored, weighted, and converted into support classifications, reducing professional judgement to a secondary role.

Emerging evidence indicates that nuanced needs are overlooked; carer strain is underestimated; participants may receive lower support classifications than required; transparency is limited; and review mechanisms are difficult to navigate.

OTSi is concerned that similar risks may arise within the NDIS if structured assessment scores become the dominant mechanism for determining participant budgets.

Within the NDIS context, snapshot assessments may fail to adequately capture fluctuating disability; communication needs; environmental barriers; cumulative impairments; and psychosocial complexity.

Where professional judgement and allied health evidence are constrained by algorithmic or classification-based systems, there is a substantial risk that complex needs will be under-recognised and underfunded.

OTSi recommends:

- strict limits on automation;
- mandatory human review rights;
- prohibition on fully automated eligibility or funding decisions;
- transparency regarding algorithms and rules; and
- independent oversight mechanisms.

Schedule 4: New Framework Planning

OTSi is concerned that the new framework planning provisions further entrench the “directly arising” test for supports.

Disability support needs are often complex, cumulative, and interconnected. Restricting supports only to needs directly arising from eligible impairments risks excluding essential supports that enable functional participation.

OTSi is also concerned that the new framework planning model appears designed primarily around expenditure control rather than participant outcomes. OTSi has provided a detailed submission in response to previous consultation on NDIS New Framework Planning, and provided a submission to the NDIS Joint standing Committee on this topic¹.

Schedule 5: Transitional Rules

The Bill grants broad transitional rule-making powers to the Minister, including the ability to temporarily modify how provisions operate.

OTSi is concerned that these powers are highly discretionary; may significantly affect participant rights; and operate with limited parliamentary scrutiny.

Although the Bill states these powers cannot directly amend the Act or create offences, the practical impact on participants may still be substantial.

Given the scale of the proposed reforms, OTSi submits that transitional arrangements require greater transparency; independent oversight; public consultation; and parliamentary accountability.

Conclusion

OTSi acknowledges the need for a sustainable NDIS. However, sustainability cannot be achieved through measures that reduce access, weaken safeguards, increase hardship, and transfer costs onto disabled people, families, and other systems.

The proposed Bill fundamentally reshapes:

- eligibility;
- permanence;
- functional capacity;
- reassessment rights;

¹ No 10 listed here [Submissions – Parliament of Australia](#).

- funding mechanisms;
- decision-making powers; and
- participant safeguards.

Many of these changes carry profound human rights implications.

OTSi urges the Committee to ensure that reforms:

- strengthen the evidentiary foundations of decision-making;
- preserve a whole-of-person understanding of disability;
- protect the role of allied health evidence;
- maintain procedural fairness and safeguarding protections; and
- avoid repeating failures that have already contributed to participant harm, inequitable outcomes, and increased exploitation risk.

OTSi urges the Committee to recommend:

1. Delaying implementation pending meaningful consultation and impact assessment.
2. Removing or substantially limiting Ministerial powers to impose broad funding cuts.
3. Retaining environmental and personal factors within functional capacity assessments.
4. Protecting the right to refuse treatment without losing Scheme access.
5. Strengthening safeguards around plan suspension and participant contact.
6. Prohibiting fully, and safeguarding partially, automated eligibility and planning decisions.
7. Protecting community participation and capacity building supports.
8. Requiring Category A Rule status for key definitions and funding powers.
9. Conducting comprehensive human rights, gender, First Nations, and socioeconomic impact assessments.
10. Ensuring foundational supports exist and are adequately funded before restricting NDIS access.

OTSi stands ready to contribute constructively to co-design processes that improve safeguarding, funding precision, participant outcomes, Scheme administration, and long-term public value.

The NDIS exists because Australians recognised that disabled people deserve dignity, participation, safety, and equality. Any reform to the Scheme must strengthen those principles, not weaken them.