



**OTSi Submission 21 May 2026**

## **Senate Community Affairs Legislation Committee Inquiry**

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

# **1. Executive Summary**

The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 represents the most significant restructuring of the NDIS since the Scheme's inception. While framed as a reform designed to ensure financial sustainability, the Bill fundamentally reshapes the legal architecture of access, planning, reassessment, funding, governance and participant safeguards. In doing so, it risks transforming the Scheme from a participant-directed insurance model grounded in individualised support into a standardised and fiscally managed administrative system.

The reforms follow the Federal Government's announcement that projected NDIS expenditure will be reduced by approximately \$37.8 billion over the next four years, with long-term projected Scheme expenditure revised downward from approximately \$70 billion to \$56.5 billion by 2030. OTSi acknowledges the importance of ensuring that the NDIS remains sustainable and capable of supporting future generations. However, sustainability cannot be pursued through reforms that reduce access to essential supports, weaken participant safeguards, narrow eligibility, increase reliance on unpaid carers, and shift costs onto already overstretched health, housing, education, mental health and child protection systems.

At the centre of OTSi's concerns is the cumulative effect of the reforms. While individual amendments may appear technical in isolation, taken together they represent a substantial philosophical and operational departure from the original intent of the NDIS. The repeal of section 31 removes the Scheme's clearest legislative commitment to participant-directed and individualised planning. The introduction of broad Ministerial powers to impose percentage-based funding reductions creates a mechanism for reducing supports without individual reassessment or meaningful parliamentary scrutiny. The narrowing of permanence and functional capacity definitions risks excluding participants with invisible, fluctuating or complex disabilities, while expanded automation powers create pathways for opaque algorithmic decision-making with limited transparency or review.

OTSi is particularly concerned about the impacts these reforms may have on people with invisible and episodic disabilities, including people living with ME/CFS, Ehlers-Danlos Syndrome, psychosocial disability, autism, neurological conditions and cumulative impairments. Many participants already experience substantial barriers obtaining specialist evidence, accessing treatment, navigating reassessment processes and engaging with the Agency. The Bill risks intensifying these barriers by imposing increasingly medicalised and administratively burdensome evidentiary requirements while simultaneously reducing procedural safeguards.



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The proposed reforms also fail to adequately consider the broader social and economic consequences of reducing supports. This is particularly concerning for people with hidden and invisible disabilities. The withdrawal of enabling parenting supports may increase rates of family breakdown and child removal. Reductions to therapy, community participation and maintenance supports may increase hospitalisation, mental health crises and long-term deterioration.

OTSi is deeply concerned that the Bill proceeds in the absence of comprehensive human rights impact assessments, adequate consultation with disabled people, transparency regarding automation systems, or independent modelling of likely downstream costs. The explanatory materials themselves identify significant safeguarding and equity risks, including increased reliance on unpaid female carers and negative impacts on Closing the Gap outcomes, yet the legislation contains limited mechanisms to monitor or mitigate those harms.

For these reasons, OTSi submits that the Bill should not proceed in its current form. At minimum, implementation should be delayed pending comprehensive consultation, independent legal and human rights review, the establishment of foundational supports, and the introduction of stronger parliamentary oversight and safeguarding protections.

## **2. Key Recommendations**

The 12 recommendations in Table 1 below, below should be read cumulatively. OTSi submits that the Bill cannot be assessed as a series of isolated technical amendments. The combined effect of the reforms fundamentally alters the balance between participant safeguards, individualised support and fiscal control within the NDIS. Throughout the Bill there is insufficient recognition that many participants, particularly those with hidden, invisible, fluctuating and psychosocial disabilities, and autism, may experience direct disability-related barriers to complying with Agency expectations regarding communication, evidence gathering, treatment engagement, reassessment participation and administrative processes. These realities must be embedded into all legislative safeguards, operational frameworks and compliance systems.



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## TABLE 1: OTSi Recommendations

Schedule / Provision	Key Concern	Recommendation
Schedule 1 – Item 66 (Repeal of section 31)	The repeal of section 31 removes the central legislative protection for participant-directed and individualised planning and fundamentally alters the philosophical foundation of the NDIS.	Delete Item 66 of Schedule 1 in full and retain section 31 as a core interpretive provision of the NDIS Act. Reinstate explicit legislative obligations requiring participant plans to remain individualised, participant-directed, outcomes-focused and grounded in participant goals, aspirations and lived circumstances.
Schedule 1 – Proposed section 34A (Ministerial funding reductions)	Proposed section 34A permits broad percentage-based funding reductions for reasons of “financial sustainability” without individual reassessment, impact modelling or meaningful parliamentary scrutiny.	Delete proposed section 34A in full. Alternatively, require any determination under section 34A to be subject to public consultation, parliamentary disallowance, independent review, publication of human rights and safeguarding impact assessments, and Category A Rule status requiring agreement of states and territories.
Schedule 1 – Proposed section 25B (Alternative supports)	Participants may be excluded from NDIS supports based on hypothetical, inaccessible or inadequate mainstream supports that do not actually exist in practice.	Amend section 25B so exclusion is only permitted where alternative supports are demonstrably available, accessible, timely, culturally safe, geographically obtainable and substantially equivalent to the NDIS support that would otherwise be provided.
Schedule 1 – Proposed section 9B (Functional capacity)	The proposed definition artificially separates disability from environmental realities, assistive technology and support systems, creating an inaccurate and reductionist model of functioning.	Amend section 9B to require functional capacity to be assessed in real-world conditions, taking into account assistive technology, environmental barriers, reasonable adjustments, fluctuating disability, executive functioning impairments and cumulative impacts of multiple impairments.
Schedule 1 – Items 88–94 (Permanence and treatment)	The proposed permanence test risks coercive treatment expectations, undermines bodily autonomy and disadvantages participants unable to access specialists or historical records.	Amend items 88–94 so participants are only expected to undertake treatments that are evidence-based, clinically appropriate, reasonably available, financially accessible and undertaken with free and informed consent. Explicitly protect the right to decline treatment without losing Scheme access.
Schedule 1 – Proposed section 17B (Sustainability principles)	Financial sustainability risks becoming a dominant interpretive principle capable of overriding reasonable and necessary support entitlements.	Amend section 17B to expressly state that sustainability is a relevant administrative consideration but cannot override statutory entitlements to reasonable and necessary supports under section 34.
Schedule 1 – Proposed subsections	The amendments risk shifting unsustainable caring burdens onto families	Amend the provisions to require consideration of family sustainability, child wellbeing, cumulative caring burden, parental disability and the



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34(1G)–(1J) (Parenting and family responsibility)	and increasing child protection involvement.	comparative social and economic costs of withdrawing supports.
Schedule 1 – Reassessment and suspension powers	Expanded reassessment delays and suspension powers create serious safeguarding risks for participants with communication barriers, fluctuating conditions or psychosocial disability; or autism.	Restore appeal rights removed by Items 21–25, narrow suspension powers, require accessible communication attempts, mandate safeguarding review before suspension, and ensure deterioration or aggravated circumstances are captured within reassessment provisions.
Schedule 2– Fraud and Integrity	Expanded compliance, investigative and nominee liability powers risk creating fear, surveillance and disproportionate enforcement impacts for disabled people, particularly participants with communication barriers, psychosocial disability, executive functioning impairments and fluctuating capacity	Amend all fraud and integrity provisions to require that compliance, investigation and enforcement measures are implemented proportionately, transparently and with embedded and responsive safeguarding mechanisms. Require accessible compliance pathways, independent oversight, trauma-informed administration, funded advocacy access and explicit recognition that the impacts of disability may directly affect a participant’s capacity to comply with Agency expectations, communication processes and procedural requirements.
Schedule 3 – Automation and algorithmic decision-making	The Bill creates broad powers for automated decision-making without sufficient transparency, oversight or review rights.	Prohibit fully automated eligibility and funding decisions. Require publication of algorithms, calculation methodologies and assumptions. Mandate human review rights, independent audits, algorithmic transparency obligations and parliamentary scrutiny before expansion of automation powers.
Schedule 4 – New Framework Planning	The proposed planning model risks replacing individualised supports with standardised budgeting and partial funding approaches.	Retain person-centred planning principles, prohibit standardised rationing replacing reasonable and necessary assessment, preserve lived experience evidence and require transparency regarding assessment tools and budgeting methodologies.
Schedule 5 – Transitional powers	Broad transitional rule-making powers permit significant changes with limited scrutiny.	Require parliamentary oversight, public consultation, publication of implementation impact assessments and independent review of transitional arrangements.



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### 3. Introduction

The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 proposes extensive amendments to the structure, administration and operation of the NDIS. The reforms occur in the context of substantial projected expenditure reductions, including the Government's announcement that approximately \$37.8 billion less funding will be allocated to the Scheme over the next four years than previously projected.

The Government has framed the Bill as necessary to ensure the "sustainability" of the NDIS. OTSi recognises that long-term sustainability is an important and legitimate public policy objective. However, sustainability cannot be reduced to a question of expenditure reduction alone. A genuinely sustainable disability support system must also safeguard participant wellbeing, prevent harm, reduce long-term social costs, support family stability, preserve human rights and ensure disabled people can meaningfully participate in community life.

The NDIS was established as a rights-based insurance scheme grounded in principles of individualised support, participant choice and control, and reasonable and necessary supports tailored to the person's circumstances. The proposed amendments collectively risk shifting the Scheme away from those foundational principles and toward a more standardised, fiscally managed and administratively controlled model.

OTSi is particularly concerned by the repeal of section 31, the tightening of permanence requirements, the narrowing of functional capacity definitions, the expansion of Ministerial funding reduction powers, and the increasing role of automation and algorithmic administration within planning and support allocation processes. Across all of these reforms there are pervasive safeguarding risks for participants with hidden, invisible, fluctuating and psychosocial disabilities, and autism, whose support needs may not be consistently visible within highly standardised or administratively driven assessment models. These changes occur alongside proposed reductions to therapy, social and community participation supports and broader efforts to standardise planning through the New Framework Planning model.

Importantly, these reforms are being advanced in circumstances where foundational supports outside the NDIS remain underdeveloped, inaccessible or entirely unavailable in many parts of Australia. The Bill therefore risks creating significant service gaps while simultaneously narrowing access to the Scheme itself.

OTSi is also deeply concerned by the cumulative impacts these reforms may have on people with invisible, fluctuating and complex disabilities. Participants living with ME/CFS, dysautonomia, POTS, Ehlers-Danlos Syndrome, psychosocial disability and neurological conditions already report significant barriers obtaining specialist documentation and navigating NDIS evidentiary processes. Many treating practitioners refuse to provide reports due to the administrative burden associated with NDIA requirements. Clinics may no longer retain records. Specialists may be unavailable, unaffordable or geographically inaccessible. Participants may be unable to tolerate extensive medical travel or repeated assessments.

The proposed amendments fail to adequately recognise these realities. Instead, they create a heightened risk that participants with lifelong disabilities may be excluded because they cannot satisfy increasingly rigid evidentiary and treatment requirements that are disconnected from real-world healthcare access.



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The Bill also raises profound concerns regarding automation, transparency and procedural fairness. Stakeholders have increasingly argued that governments should be held to at least the same standards expected of regulated industries regarding AI governance, cybersecurity, transparency and risk management. Disabled people should not become the testing ground for opaque algorithmic systems in circumstances where broader societal safeguards regarding AI remain underdeveloped.

OTSi submits that the proposed reforms require substantial reconsideration and amendment.

## **4. Schedule 1 – Access and Planning**

### **4.1 Repeal of Section 31 – Participant Directed and Individualised Planning**

One of the most consequential amendments in the Bill is the repeal of section 31 through Item 66 of Schedule 1. Section 31 is not merely a procedural provision. It is the central legislative articulation of participant-directed and individualised planning within the NDIS. It anchors the Scheme in principles of choice and control, requiring participant plans to reflect the individual's goals, aspirations, circumstances and support needs.

The Explanatory Memorandum suggests these principles are preserved elsewhere in the Bill through amendments to sections 4, 17A and 17B. OTSi does not concur. While the new provisions introduce concepts of sustainability and value for money, they do not replicate the participant-centred obligations currently embedded in section 31.

The repeal of section 31 represents a significant philosophical shift in the purpose of the NDIS. The Scheme was originally designed as an individualised insurance model recognising that disability support cannot be effectively delivered through standardised assumptions or generic service models. Removing the legislative principles that explicitly require plans to be individualised risks entrenching increasingly standardised planning practices, administrative categorisation and broad fiscal decision-making.

This concern is amplified when section 31 is considered alongside other reforms in the Bill, including the introduction of section 34A, the expansion of standardised support needs assessments and the increasing emphasis on financial sustainability as a core interpretive principle. Taken together, the reforms risk fundamentally altering the balance between participant rights and fiscal management.

OTSi therefore recommends that Item 66 be deleted in full and section 31 retained without amendment.



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## 4.2 Functional Capacity and Whole-of-Person Assessment

The proposed definition of functional capacity in section 9B represents a significant departure from contemporary disability frameworks and from the social model of disability underpinning both the NDIS and Australia's obligations under the Convention on the Rights of Persons with Disabilities.

The Bill proposes that functional capacity be assessed without assistance from others, without assistive technology and excluding environmental and personal circumstances as far as possible. The practical application of such an assessment approach has not been proven. While in theory, the concept is alluring due to potential objectivity, the practical implementation of isolating function from environmental factors, is deeply complex. It has not been proven that such an assessment is possible, particularly when we combine this assessment approach with an attempt to attribute functional capacity to specific impairments, where there is multiple. OTSi is deeply concerned that this proposed approach is overly ambitious, and hypothetical. The legislation should not change, in the absence of proof of concept that the approach is feasible. .

The proposed approach also risks disadvantaging participants whose disabilities fluctuate, who mask symptoms in formal assessments, or whose impairments interact cumulatively. Participants with hidden and invisible disabilities are especially vulnerable to underassessment within snapshot-style functional capacity models because many forms of exhaustion, pain, autonomic dysfunction, sensory overload, cognitive function, fatigue and post-exertional deterioration are not readily observable within short administrative interactions.

The legislation further risks narrowing understandings of executive functioning and self-management capacity. Many participants with autism, psychosocial disability, acquired brain injury, intellectual disability and neurological conditions experience substantial impairments in planning, organising, sequencing, emotional regulation and system navigation despite appearing superficially capable during short administrative assessments.

OTSi is concerned that highly standardised assessment models may underestimate these forms of disability while privileging simplistic measures of physical functioning.

The proposed reforms also remove safeguards deliberately inserted into previous legislation to avoid excessively medicalised assessment approaches. The removal of subsection 32K(3A) and the note in section 32L(6) risks weakening recognition of a participant's broader health, social and environmental context.

OTSi recommends that the legislation be amended to require functional capacity to be assessed in real-world conditions, including consideration of environmental barriers, assistive technology, cumulative impairments, executive functioning, fluctuating disability and support systems.



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## 4.3 Permanence, Appropriate Treatment and Bodily Autonomy

The proposed permanence reforms contained in Items 88–94 are among the most alarming aspects of the Bill. The amendments significantly tighten the permanence test by requiring participants to undertake “all appropriate treatment” before impairments may be considered permanent.

This proposal goes substantially further than previous failed reforms. It creates a model in which disabled people may effectively be required to continue exhausting interventions, treatments and medical pathways before they are considered sufficiently “stable” to qualify for support.

OTSi is deeply concerned that this creates a dangerous and fundamentally inappropriate threshold for Scheme access, and fundamentally misunderstands the purpose of the Scheme. Many disabilities are lifelong, fluctuating or degenerative. The fact that some interventions may marginally improve one aspect of functioning does not mean the person no longer experiences substantial disability or requires support.

The drafting also raises profound concerns regarding bodily autonomy and informed consent. While the legislation contains a limited exemption for treatments that cannot be undertaken for medical reasons, it does not adequately recognise that people have the right to refuse treatment for a broad range of legitimate reasons, including trauma, risk, side effects, religious beliefs, prior treatment failures or quality of life considerations.

For example, a deaf person may choose not to undergo cochlear implant surgery due to personal preference, cultural identity, communication preferences, perceived risks, or concerns regarding outcomes. The decision to decline a cochlear implant should not become a barrier to accessing the NDIS or other disability supports.

Another example is a person with a psychosocial disability who has had electroconvulsive therapy in the past, and experienced significant cognitive impacts that have persisted over time, such as memory and recall impacts. This person should not be put in a position where they are required to repeat a treatment that led to further functional impact on top of existing psychosocial disability, to prove treatment options have been exhausted prior to accessing the NDIS.

The practical barriers to satisfying the proposed evidentiary requirements are also severe. Many clinics retain records for only limited periods. Participants with lifelong conditions may no longer have access to historical treating practitioners. Others cannot afford repeated specialist consultations or interstate travel.

These barriers disproportionately impact people with hidden and invisible disabilities including ME/CFS, dysautonomia, POTS, Ehlers–Danlos Syndrome and complex neurodevelopmental and psychosocial disabilities. In many areas of Australia there are very few specialists with expertise in these conditions, and participants may rely primarily on GPs or general physicians whose evidence the NDIA may not accept.

OTSi is also deeply concerned that capacity-building interventions may increasingly be interpreted as “appropriate treatment”. Many participants with energy-limiting disabilities experience deterioration



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following exertion-based interventions. Requiring participants to repeatedly engage in inappropriate treatment programs before disability is considered permanent risks significant harm.

The legislation should therefore be amended so that participants are only expected to undertake interventions that are evidence-based, clinically appropriate, reasonably available and undertaken with free and informed consent. The Act should also explicitly protect the right to refuse treatment without losing access to supports.

## **4.4 Reassessment, Suspension Powers and Procedural Fairness**

The proposed reassessment and suspension provisions significantly weaken participant safeguards.

The Bill extends reassessment decision timeframes from 21 days to 90 days while simultaneously narrowing reassessment pathways and imposing stricter evidentiary thresholds. Participants experiencing rapidly deteriorating circumstances may therefore be left for extended periods without adequate supports.

OTSi is particularly concerned by the requirement that changes in circumstances be “unanticipated”. Disability-related deterioration is often foreseeable in a general sense while still being devastating in its practical impact. The worsening illness of an ageing parent, escalating domestic violence, progressive neurological deterioration or the collapse of caring arrangements may all be foreseeable while still requiring urgent reassessment.

The Bill also permits plans to be suspended where the Agency “cannot contact” a participant. This creates serious safeguarding risks for people who experience communication barriers, social withdrawal, executive dysfunction, homelessness, trauma or mental health crises.

Participants living with severe fatigue-related conditions may miss emails or phone calls during periods of deterioration. Deaf participants may not receive inaccessible communication. Autistic participants may become overwhelmed by repeated administrative contact. Participants escaping violence may have changed phones, addresses or support networks.

OTSi is aware of participants who have already lost supports or appeal opportunities after missing communications during periods of significant illness, fatigue-related deterioration, cognitive overload or disability-related impairment. The Bill must explicitly recognise that the impacts of disability itself may directly affect a participant’s ability to comply with Agency expectations and administrative requirements.

The consequences of inappropriate suspension can be catastrophic, including homelessness, hospitalisation, institutionalisation, suicide risk and support breakdown.

OTSi therefore recommends restoring appeal rights removed by Items 21–25, narrowing suspension powers, requiring demonstrated accessible communication attempts and mandating safeguarding review processes before supports can be suspended.



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## 4.5 Ministerial Funding Reduction Powers – Proposed Section 34A

Proposed section 34A is one of the most extraordinary powers ever proposed within the NDIS legislative framework.

The provision permits the Minister, through legislative instrument, to impose broad percentage-based reductions to categories of participant supports for reasons of “financial sustainability”. These reductions may occur without individual reassessment, without consideration of actual support needs and without meaningful parliamentary scrutiny.

OTSi is deeply concerned that this represents a fundamental departure from the principles of individualised support that underpin the NDIS.

The provision effectively creates a legislative mechanism for rationing supports based on fiscal policy rather than individual disability need. This concern is heightened by the simultaneous repeal of section 31 and the introduction of broader sustainability principles within sections 17A and 17B.

The explanatory materials themselves acknowledge substantial risks associated with broad support reductions, including impacts on safeguarding, gender equity, unpaid carers and Closing the Gap outcomes. Yet the Bill contains no requirement for independent impact assessment, public consultation, intersectional analysis or rolling audit of the human consequences of funding reductions.

OTSi is particularly concerned that reductions to social and community participation, therapy and maintenance supports may increase long-term costs elsewhere. Existing evidence and participant experience strongly indicate that people with hidden and invisible disabilities are likely to be among the groups most severely impacted by reductions to social and community participation supports, particularly where those supports function as critical safeguards against isolation, deterioration, institutionalisation and mental health decline<sup>1</sup>. Reduced supports may contribute to hospital admissions, family breakdown, mental health deterioration, carer burnout and entry into out-of-home care.

The proposal also risks normalising partial funding approaches that have historically been inconsistent with landmark NDIS jurisprudence, including case law such as *McGarrigle*.

OTSi submits that proposed section 34A should be deleted in full. If Parliament nevertheless proceeds with the proposal, any use of the power should be subject to public consultation, parliamentary disallowance, independent review, publication of impact assessments and Category A Rule requirements.

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<sup>1</sup> [Australians with Down syndrome among those to suffer most from proposed NDIS cuts to social activities | National disability insurance scheme | The Guardian](#)



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## 4.6 Parenting, Children and Family Sustainability

The proposed amendments relating to parenting and family responsibility risk significantly increasing pressure on families already operating at crisis point.

The reforms appear to narrow recognition of disability-related parenting supports while increasing reliance on informal care. This fails to adequately recognise that many parents with disability require supports beyond ordinary parental responsibility in order to safely and sustainably care for their children.

OTSi is deeply concerned that reducing these supports may contribute to escalating child protection involvement, family breakdown and removal of children into out-of-home care.

This outcome would not only be profoundly harmful for families, but economically irrational. The cost of providing preventative disability supports to families is substantially lower than the long-term costs associated with child protection intervention, foster care and family separation.

The legislation should therefore require explicit consideration of family sustainability, cumulative caring burden, child wellbeing, parental disability and the comparative costs of withdrawing supports.

## 5. Schedule 2 – Fraud and Integrity

OTSi supports the importance of maintaining integrity within the NDIS and ensuring public funds are protected from fraud and exploitation. However, integrity measures must be implemented proportionately, transparently and with embedded and responsive safeguarding mechanisms.

OTSi refers the Committee to its detailed submission to the previous Bill Inquiry regarding integrity, compliance and safeguarding powers<sup>2</sup>

A central concern throughout this Bill is the insufficient recognition that disability itself may directly affect a participant's capacity to comply with Agency expectations, procedural requirements, communication demands and evidentiary obligations. This issue is particularly acute for participants with hidden and invisible disabilities, psychosocial disability, autism, fatigue-related conditions, executive functioning impairments, cognitive disability and fluctuating conditions.

Many participants experience substantial barriers engaging with complex administrative systems. Participants may miss phone calls or emails during periods of deterioration, cognitive overload, burnout, sensory overwhelm or mental health crisis. Others may have difficulty to organise documentation, interpret

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<sup>2</sup> Number 2, Senate Inquiry to the National Disability Insurance Scheme Amendment (Integrity and Safeguarding) Bill 2025  
[Submissions – Parliament of Australia](#)



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compliance notices, understand procedural obligations or respond within rigid timeframes because of the direct impacts of disability.

OTSi is concerned that the Bill repeatedly frames these issues through a compliance lens rather than a safeguarding lens.

OTSi supports the importance of maintaining integrity within the NDIS and ensuring public funds are protected from fraud and exploitation. However, the proposed compliance framework risks creating a culture of surveillance and heavy policing that disproportionately impacts disabled people and families.

Many participants experience cognitive, communication or psychosocial barriers that affect their ability to navigate complex compliance processes. Others rely heavily on family nominees or support persons to manage correspondence and obligations.

The expansion of nominee liabilities and investigative powers risks discouraging families from acting as nominees altogether. At the same time, the legislation provides limited recognition of the barriers disabled people may experience understanding or responding to compliance requirements.

OTSi recommends the introduction of stronger independent oversight, accessible compliance processes, funding for advocacy support services and safeguards ensuring compliance responses remain proportionate and trauma-informed.

## **6. Schedule 3 – Governance and Automation**

### **6.1 Pricing Powers**

The Bill significantly expands Ministerial control over pricing arrangements while reducing the role of independent oversight.

OTSi is concerned that pricing mechanisms may increasingly prioritise expenditure reduction over workforce sustainability, participant safety and service quality.

The allied health sector is already experiencing substantial workforce shortages, particularly in rural and remote regions. Participants with hidden and invisible disabilities often already experience significant barriers accessing appropriate therapy supports, specialist clinicians and practitioners with expertise in complex or poorly understood conditions. Any further reduction in therapy accessibility is likely to disproportionately harm these cohorts. Inadequate pricing settings risk further destabilising service delivery and increasing co-payments for participants who are already living on fixed incomes.

Any pricing framework must therefore involve meaningful consultation with providers, participants and the disability sector, while ensuring pricing reflects the actual complexity and sustainability of service delivery. Independent pricing through IHACPA is the optimal approach to fair pricing within the NDIS.



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## 6.2 Automation and Algorithmic Decision-Making

Schedule 3 creates a broad legislative framework for automation and algorithmic administration within the NDIS.

While some low-risk administrative automation may be appropriate, the Bill authorises automation across major areas of Scheme administration and creates pathways for future expansion through legislative instruments.

OTSi is deeply concerned by the breadth of these powers and the absence of meaningful transparency obligations.

Participants and the Administrative Review Tribunal cannot effectively review decisions where the assumptions, algorithms, weighting systems and calculation methodologies underpinning those decisions are hidden from scrutiny.

The disability community has already witnessed the risks associated with highly standardised classification systems through the rollout of the Integrated Assessment Tool in aged care. Emerging evidence suggests these systems may underestimate complexity, reduce professional discretion and fail to capture fluctuating or contextual support needs.

Within the NDIS, these risks are particularly acute for participants with psychosocial disability, autism, fluctuating conditions, cumulative impairments and communication barriers.

OTSi is also concerned by provisions stating that failures to comply with safeguards do not affect the legal validity of automated decisions. This significantly weakens procedural fairness.

The disability community should not be subjected to inadequately regulated automated systems in circumstances where broader societal safeguards regarding AI governance remain underdeveloped.

OTSi recommends prohibiting fully automated eligibility and funding decisions, requiring mandatory human review rights, appeal pathways, publishing algorithmic methodologies and introducing independent oversight and audit mechanisms.



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## 7. Schedule 4 – New Framework Planning

The New Framework Planning model appears designed primarily around expenditure control, standardisation and administrative consistency.

OTSi is concerned that the reforms further entrench the “directly arising” test and create increasing reliance on standardised support categorisation and budgeting methodologies.

Disability support needs are rarely linear or neatly attributable to isolated impairment categories. Many participants require supports because of the cumulative interaction of physical, neurological, psychosocial and environmental factors.

The proposed evidence hierarchy within sections 34(1E) and (1F) also risks diminishing the status of participant lived experience. The reforms elevate generalisable research and cohort evidence while reducing the weight given to individualised lived outcomes.

This approach disadvantages participants with rare conditions, fluctuating disabilities and disabilities that are poorly represented in published research.

OTSi is deeply concerned that the combined effect of these reforms may result in increasingly standardised and rationed support models that fail to respond to individual circumstances. Participants with hidden, invisible and fluctuating disabilities are especially vulnerable within highly standardised systems because their support needs are frequently misunderstood, underestimated or dismissed when assessment frameworks privilege easily observable or static forms of impairment.

The legislation should therefore preserve participant-centred planning principles, prohibit standardised rationing replacing reasonable and necessary assessment, and maintain recognition of lived experience evidence

## 8. Schedule 5 – Transitional Rules

The Bill grants broad transitional rule-making powers to the Minister, including powers capable of significantly affecting participant rights and Scheme operations.

While transitional flexibility may be necessary during major reform processes, the proposed powers operate with limited parliamentary scrutiny and minimal transparency requirements.

Given the scale and significance of the proposed reforms, OTSi considers it essential that transitional arrangements be subject to stronger oversight, consultation and independent review.



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## **9. Conclusion**

The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 represents a profound shift in the legal and philosophical foundations of the NDIS.

While framed as a sustainability reform, the cumulative effect of the amendments risks fundamentally altering the meaning of participant choice and control, weakening individualised planning, narrowing access pathways and embedding increasingly standardised and fiscally driven approaches to disability support.

The repeal of section 31, the expansion of Ministerial funding reduction powers, the tightening of permanence requirements and the broad authorisation of automation collectively signal a movement away from the original intent of the Scheme.

OTSi remains deeply concerned that the reforms will disproportionately impact people with invisible, fluctuating and complex disabilities, while simultaneously increasing reliance on unpaid carers and crisis systems. This will occur in the context of reduced or withdrawn access to occupational therapy and other capacity building approaches.

Sustainability cannot be measured solely through reductions in Scheme expenditure. A genuinely sustainable NDIS must also preserve dignity, participation, safety, family stability, human rights and equitable access to support.

OTSi therefore urges the Committee to substantially amend the Bill, retain core participant protections, strengthen safeguards and delay implementation until meaningful consultation, impact assessment and foundational support systems are properly established.

The NDIS exists because Australians recognised that disabled people deserve dignity, autonomy, participation and equality. Any reform to the Scheme must strengthen those principles rather than diminish them.