



Attention:

Community Affairs Legislation Committee

10th July 2024

Dear Community Affairs Legislation Committee,

RE: The National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024

Thank you for the opportunity to present my submission for due consideration. I work as an Occupational Therapist, and am the director of my sole trader business, Pear Tree Occupational Therapy, located in Corio, Victoria. I am a disability ally, devoting my vocation to enable people living with disabilities and other needs, through inclusive occupational therapy, to access the capabilities, opportunities, and resources they need to live lives that they have reason to value, through being able to do, be, become, belong, connect, and flourish. I disclose that I do not live with a disability. Together with my primary vocation, I also hold an academic role as an Adjunct Associate Professor of Occupational Therapy at the University of Canberra. I had the privilege of being a “Day 1” Planner when DisabilityCare Australia (prior to becoming the National Disability Insurance Agency) was launched in the Barwon Trial site back on 01/07/2013.

I am writing to you to express my sincere concern about planned reforms to the National Disability Insurance Scheme (NDIS), as articulated in *The National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024*. As an allied health professional,

I urge you to please reject the introduction of this Bill in its current form until it can address the concerns as expressed by my community of practice, the NDIS Occupational Therapy Community of Practice (Submission Number 2) at the recent Senate Committee meeting, and presented by Muriel Cummins, Occupational Therapist, and representative of the NDIS Occupational Therapy Community of Practice, to the Senate Committee on 21/05/2024.

Link to submission:

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/NDISAmendment2024/Submissions?fbclid=IwZXh0bgNhZW0CMtAAAR3svkgDIMiUolawYtej_uM0M7zZC5H_oHPspFKmMmbKK44NJmcsXvmLtnQ_aem_ZmFrZWR1bW15MTZieXRlcw

These **reforms pose many risks** to people with disability in Australia. Changes to the NDIS Act, for example that amend or remove government responsibility to provide access to reasonable and necessary disability supports, will disadvantage many disabled Australians; and prove more expensive in the long term as disability needs are neglected.





In particular, as an Occupational Therapist who is qualified to complete comprehensive functional assessments which inform NDIS funding decisions given the extensive training that occupational therapists have in completing such assessments in line with our scope of practice, I strongly recommend that NDIS Bill Amendments are needed to ensure **fair and equitable NDIS Assessments**. At a minimum, the primary legislation should be updated to include the following:

1. A definition of 'assessment of support need'.
2. Clarify that assessors will be qualified allied health professionals working within their scope of practice.
3. The assessors will be independent in the performance of their functions.
4. That assessment of need will be carried out in good faith, irrespective of the cost of identified support needs.
5. Where the assessment finds identified supports to be the responsibility of another system (such as mainstream health, education, justice, and housing systems), that this is clearly stated in the assessment report and that these systems must have capacity to meet the identified need.
6. The assessment will include 'whole of person' support needs, and not limited to a single impairment(s).
7. A copy of the full assessment report will be provided to the NDIS Participant and/or their verified Nominee.
8. The Participant will be granted the right to at least one replacement assessment; and additional assessments if prior Assessments were found to be bias or flawed
9. The assessment report will include a review date.

Additionally, I am concerned that:

- The Bill places essential Scheme architecture to the legislative instrument (the Rules), rather than placing essential architecture in the primary legislation; this means there will not be parliamentary oversight of the development of the future NDIS.
- The expected cost savings to reduce the rate of cost growth (targeting 8% p.a) will not eventuate, and Participant outcomes, and potential safe access to essential disability support, could be compromised by the changes contained in the Bill proceed.
- There are safety risks associated with rapid change management and access to support during transition periods – how have these been identified and mitigated?
- There is not enough detail and scaffolding in the Bill, regarding Needs Assessments. These will be mandatory assessments and will determine plan budgets. As stated earlier from my perspective as an Occupational Therapist, these must be delivered by qualified health professionals, as recommended by the NDIS Review. We must get the design right BEFORE legislation is changed. Appeal rights will need to be clarified.
- The Support Needs Assessment will directly inform plan budgets. The 'method' for this will be determined by the Minister (subclause 32K(2)). – this should be detailed in the primary legislation. Without transparency principles outlined in the legislation, this process will not have parliamentary oversight, and we return to the issue of the





method of budget-setting taking place in a 'black-box' i.e. utilising assessment scores in an unknown and potentially unproven manner. Key principles around this 'method' will need to be included in the NDIS legislation, for transparency, trust, sound fiscal management; and to protect the rights of NDIS participants.

- NDIS supports will be more limited in future and will only include defined supports – people may miss out on essential disability supports.
- The Bill should not be passed until the foundational supports are in place – including in health, mental health, and education sectors – to prevent creating service gaps.
- The full impact of the Bill on the care economy has not been considered – what is known about the impact on access to supports? Employment of carers and people with disability? Loss of essential support providers? Access to allied health? Impact on small business and sole traders? Without detailed analysis, the Bill may lead to unintended or unconsidered consequences.
- Segregating groups of Participants through a 'classes of participants' system determined by 'identifiable characteristics', are at risk of becoming discriminatory.
- The proposed changes will disproportionately impact and potentially exclude, people with psychosocial disability.
- An amendment to Section 34 (item 46), means that only impairments identified at the point of NDIS access can have supports funded, which may disadvantage complex, acquired, and progressive disability.
- The process to determine, and offer, defined NDIS Early Interventions, would need to be described in the Bill, to ensure the scaffolding for effective, evidence-based, contemporary, and co-design of early intervention is in place.
- The structure of the flexible budget, should the budget be insufficient to meet basic 'core' support needs, may mean that capacity building is not possible due to Participants needing to prioritise day-to-day living needs as a priority. This could mean Participants cannot access capacity-building supports; allied health; or other supports that have potential to reduce longer-term needs. This could ultimately increase the cost of the Scheme.

Currently, I'm concerned the changes will impact the Participants I work with, such as Participants I support in Colac, a rural town 1 hour from Geelong (MMM-5), where there is a high proportion of NDIS Participants with primary diagnoses of complex Psychosocial Disabilities, and other Neurodiverse Disabilities. There is a significant dearth of mainstream health and mental health services to service this community. They do not even have mainstream rehabilitation services, for such a growing population in Victoria's Southwestern Region.

I'm concerned that many NDIS Participants living with Autism and Complex Psychosocial Disabilities in Corio and Lara, Victoria, where I live and work, will be booted off the NDIS simply because of their disability 'classification', meaning that they will be left with no accessible, meaningful and purposeful supports to address the complexities of their disabilities where they live, as mainstream mental health services are not equipped, do not





have the skill set, nor are they funded to meet their functional needs, and address their goals and aspirations for a fair and good life beyond mere survival.

Additionally, The Participant Service Guarantee is currently on pause. There are unprecedented delays in plan reassessments, impacting access to supports, and causing enormous distress for Participants and families. I am concerned these issues will only get worse, should the changes outlined in the Bill, proceed. More work must be done to ensure the scaffolding contained in the Bill is solid enough to set up an optimal NDIS 2.0, BEFORE dissolving the current legislative framework through Bill ratification.

I am writing to ask you to **STOP** the changes to the *NDIS Act (2013)* going through until due diligence around Commonwealth government responsibility to disabled people, has occurred.

Yours sincerely,

Dr Robert Pereira PhD (Social Inclusion), BOccThy (Hons), Reg OT

Occupational Therapist
OTA Endorsed Mental Health Occupational Therapist

Director, Pear Tree Occupational Therapy
Adjunct Associate Professor (University of Canberra)
Member of Occupational Therapy Australia
AHPRA Reg. No. OCC0001719371

