

10th July 2024

Dear Senators,

I am writing to you to express my 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 ask for your support in making sure proposed reforms do not pass into law in their current form. 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.

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. To this point, it has not, even with recent amendments made.

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.
- As yet, there is no publicly available Bill Implementation plan (or formal acceptance of the NDIS Review recommendations), while implementation has clearly begun. This plan needs to be shared transparently and as a priority, so that the community, and parliament, can understand the vision and intention of the Bill.
- There are safety risks associated with rapid change management and access to support during transition periods. There is little to no transparent and accessible documentation to demonstrating how this has been identified and mitigated.
- There is not enough detail and scaffolding in the Bill, regarding both Needs Assessments. These will be mandatory assessments and will determine plan budgets. These must be delivered by QUALIFIED allied health professionals, as recommended by the NDIS Review, yet this is not clearly stipulated in the current Bill. 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 arbitrary 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, however these parameters have not been made transparent and currently both people with disability, their carers and families, and dedicated service providers are in the dark, experiencing fear and anxiety about what is to come, with little knowledge to support planning for their futures.
- There is not enough detail and scaffolding in the Bill, regarding 'Foundational Supports'. The Bill should not be passed until these foundational supports are co-designed with significant contribution from the disability community, Allied Health bodies, and particularly in the Early Childhood Intervention space, engagement with the literature regarding Early Childhood Intervention, beyond the 'education literature' currently leading the conversation. The Bill should NOT be passed until these Foundational Supports are readily in place within our communities, accessible to young children and families and those being directed to other Early Intervention pathways outside of the NDIS, to prevent creating problematic service gaps.
- The proposed changes will disproportionately impact and potentially exclude many children in our communities showing early indicators of developmental delay and complexity with a trajectory toward disability, requiring qualified and nuanced Early Intervention underpinned by Evidence Based Practices embedded in developmental science NOT simply in 'Education'. These children and their families will be directed to supports outside of the NDIS that currently, and without considerable time and consultation, simply do not exist in our communities to effectively meet those essential needs.
- 'Shifting' Foundational Supports into the already challenged education system has a number of existing barriers and fails to consider the importance of the first 1000 days of development, of which children move through often before accessing any 'education settings'
- Early Childhood Development that is supported to reduce potential future disability cannot be effectively delivered within education settings and discounts the critical component of family centred supports.
- There has been little detail regarding the proposed plans for 'Foundation supports' and should changes be made that remove Early Childhood Intervention from the NDIS scheme prior to comprehensive consultation and design of these services in all communities, we risk restricting access to timely and appropriately trained Early Childhood Intervention services, exponentially increasing the likelihood of developmental delays becoming exacerbated and moving these children toward experiences of disability with a much more profound impact on their functional capacity in time, and subsequent cost to the system. They will simply 'take the long way around' and arrive in the system they were removed from, with much greater complexity in their support needs, over a much longer period of time.
- We NEED the government to listen, to engage with the appropriate bodies, to understand how Early Childhood Intervention needs to look and be delivered in our communities in order to reduce the complexity of need currently building within the young families in our communities – clearly reflected in the AEDC data. These supports need to be underpinned by developmental science, interpersonal neurobiology, and early relational health, in the perinatal period, and first 3 years of a child's life – not from Kindergarten and within a primarily education based model.

- Leading lawyers have indicated the APTOS table is not ‘useable law’ and should not be linked to the legislation. More work must be done with States and Territories to ensure there are no 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 particularly on small business and sole traders who deliver high quality and highly qualified capacity building supports within their communities? 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 both explicitly and implicitly discriminatory.
- The proposed changes will disproportionately impact and potentially exclude, people with psychosocial disability.
- Section 30 of the Bill grants enhanced Plan Revocation powers to the NDIS CEO - we suggest these may need to be reviewed, especially the 90-day non-response timeframe - where there is evidence that the delayed participant response is disability-related. There are risks here for high needs participants. We refer the reader to the case of David Harris for such an example. [David Harris was left to die alone after his NDIS payments were cut off \(smh.com.au\)](https://www.smh.com.au)
- 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.

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.

Currently, I’m concerned the changes will impact the participants I work with, young children in my community, and their parents, desperately seeking to sustain avenues of access (logistically but mostly financially) to the Allied Health supports that best align with the developmental needs of their child.

Again, 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.

As Occupational Therapists, we have experienced unreasonable and disproportionate representation in stories of extortion and ‘rorting the system’ led ignorantly by Minister Bill Shorten, in a preoccupation that can only be described as a smear campaign. Occupational Therapists on the greatest scale, are working tirelessly, on the ground, directly with participants in supporting their needs to live their lives with dignity, comfort and equal opportunity. This is not glamorous work. BUT, it is THE work we need to keep doing for our Australian citizens experiencing disproportionate

marginalisation and barriers to living a safe and comfortable life, due to their disability. We oppose the prevailing rhetoric about 'OT's building decks on their holiday houses'! Most of us are too busy serving our communities in our complex clinical roles to go on holiday, working at a rate of pay that has stagnated for over 5 years now, whilst all business costs continue to rise. And you don't have to be a business whizz to recognise that \$193.99 hourly rate for highly qualified Allied Health professionals, does not go into our 'take home' pay. This is a basic concept that should not be difficult to understand for any politician engaged in conversations regarding budgets and fiscal sustainability.

There is a great deal of knowledge and wisdom in our country, across sectors to allow for co-design that moves the NDIS into both a sustainable model, and a model that meets the basic rights of children and adults in our communities, living with disability, or presenting with high risk factors for future experience of disability. WE NEED this process to be slowed down, to allow for this to happen. We have come this far, with a scheme that whilst not perfect, has offered many Australians the access to supports they need in order to experience choice and control over their lives. If the intention is to build a 'Better NDIS' let's do that. Let's get our hands dirty together and allow the contribution of people with disability, their carers, and experienced and highly trained service providers for true co-design. Without this willingness to 'STOP' this rapid and non-transparent passing of the Bill, it is evident this is purely based on cost reduction and not at all embedded in a commitment for a netter NDIS.

Regards,