

28 May 2026

Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Sent by email

Dear Committee,

NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026

The Australian Human Rights Commission (Commission) holds serious concerns about the *National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* (the Bill). We are writing to request that the Bill not be passed before:

- the Parliamentary Joint Committee on Human Rights (PJCHR) has assessed the Bill and reviewed the Statement of Compatibility with Human Rights;
- a comprehensive gender impact analysis is completed; and
- there has been closer consultation with the disability community and they are actively involved in the reform.

A two-week consultation period is wholly inadequate for reforms of this scale, which have significant implications for people's rights, lives and livelihoods. Proceeding without appropriate scrutiny creates a clear risk of adverse and unintended human rights impacts.

Due to the short timeframe for submission, the concerns raised in this submission are not exhaustive.

Human rights impact

The *National Disability Insurance Scheme Act 2013* (Cth) (NDIS Act) is intended to give effect to Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD)¹. At its core, the NDIS was introduced as a human rights-based reform, grounded in the recognition that disability arises from the interaction between a person's impairment and the social, environmental and attitudinal barriers they face.² It was built on the principle that people with disability can live independently and participate in the community with access to supports that enable choice, control and inclusion.³ This Bill has the potential to be

regressive in the protection and realisation of the rights of people with disability, which is contrary to Australia's obligation regarding the principle of non-retrogression.⁴

Further, measures proposed in the Bill as well as the Ministerial discourse about the changes place stronger emphasis on financial considerations in decision-making than on human rights. This reinforces an ableist framing of people with disability as a cost pressure to be managed, rather than as people who have rights and who are entitled to equality and participation.

Statement of Compatibility with Human Rights

The Statement of Compatibility with Human Rights (the Statement) does not adequately assess the human rights impacts of the Bill and fails to capture its regressive effect on the rights of people with disability.

While the Statement identifies relevant rights, including those under the CRPD, it largely frames the Bill as advancing these rights through aims such as sustainability, fraud prevention and consistency in decision-making. This framing is incomplete and misleading, as it does not meaningfully engage with the cumulative impact of the proposed amendments on the rights of people with disability.

In particular, the Statement does not address how the combined measures in the Bill may limit the realisation of rights, including personal autonomy, the right to independent living, participation and inclusion in the community. As a result, there is insufficient evidentiary basis to support the conclusion that the Bill is compatible with human rights. Without an outcomes framework that incorporates human rights indicators, it is and will continue to be difficult to assess whether the NDIS is meeting its human rights objectives, or whether the proposed cost-control measures amount to impermissible regressive human rights impacts.

Consultation and participatory design

The process for developing the Bill raises serious concerns regarding compliance with Australia's obligation under Article 4(3) of the CRPD to closely consult and actively involve people with disability in decision-making processes that affect them.

The Explanatory Memorandum refers to consultation undertaken through the NDIS Review and other inquiries, and anticipates further consultation during implementation. However, there is little evidence of targeted consultation on the specific measures proposed in this Bill, and the current two-week consultation timeframe is manifestly insufficient for reforms of this scale.

More fundamentally, the Bill departs from a participatory, co-design approach. Genuine co-design requires people with disability to shape the design of reforms

before policy settings are settled, rather than being consulted after the fact. Reliance on the NDIS Review as justification for these reforms is therefore contradictory, given that the NDIS Review itself emphasised that its recommendations should be implemented through co-designed, interdependent reform processes,⁵ to reflect the needs, experiences or priorities of the community.

Broad Ministerial discretion

The Bill introduces a new power for the Minister to reduce funding for groups of supports through a legislative instrument,⁶ which raises a number of concerns about how these decisions would operate in practice.

Firstly, there is limited clarity about how decisions would be made. While, the Bill requires the Minister to have regard to participant safety,⁷ it does not set out detailed criteria, processes or a requirement to justify decisions. This makes it difficult to understand how funding reductions would be determined. Secondly, there are limited avenues to review or challenge these broad legislative decisions, and a lack of public accountability measures to support Ministerial decisions. Thirdly, the breadth of power means that funding settings could be adjusted over time in response to changing policy, governments, or budget priorities. This creates some uncertainty for participants about the level of support they can expect.

More broadly the reduction throughout the Bill in reviewable administrative decisions made by the NDIA significantly diminishes the role of the Administrative Review Tribunal and the judiciary, compromising pathways to access justice.⁸

Collectively, these changes reduce independent scrutiny, with implications for access to justice. It should be recognised that these provisions alone have led to concerning levels of anxiety and uncertainty within the disability community.

Defining functional capacity and exclusion of environmental context

The Bill introduces a new definition of ‘functional capacity’ that focuses on a person’s ability to undertake activities without assistance, while removing consideration of environmental and personal circumstance.⁹ These amendments move the NDIS away from the human rights model of disability toward a narrower, impairment-focused, medical model. In doing so, the social and human rights models that have informed disability reform over the past decade risk being undermined. In practice, this approach may limit access to the NDIS for people whose disability and support needs arise from social or environmental barriers.

Requirement to undertake ‘appropriate treatment’

The amendments proposed in Part 8 of Schedule 1 would mean that an impairment will not be considered permanent under access criteria unless a person has

undertaken all 'appropriate treatments'. This would significantly restrict access to the NDIS and undermine a rights-based approach to disability supports.

These amendments place greater emphasis on medical intervention as a precondition to accessing NDIS supports, further entrenching a medicalised understanding of disability. The practical effect of these provisions is to limit autonomy by effectively requiring people to pursue treatment as a condition of support, regardless of their personal preferences, circumstances, or access to services.

Narrowing supports to those arising 'directly' from impairment

The Bill introduces a requirement that supports must arise 'directly' from an impairment for which a person meets the disability or early intervention access requirements.¹⁰ This narrows the connection between impairment and support needs, disregarding the broader ways disability affects a person's daily life. In practice, this is likely to exclude essential supports that enable participation where the link to a single impairment is not easily isolated, marking a clear departure from the current holistic and person-centred approach.

Reduced choice, control and individualisation

The Bill introduces a more standardised approach to planning and funding, including through references to classes of participants,¹¹ fixed funding parameters,¹² and expanded use of automated decision-making.¹³ These changes may erode the individualised, participant-centred model that underpins the NDIS.

By reducing flexibility and tailored supports, the Bill risks limiting genuine choice and control and may, in practice, drive more standardised service delivery models that promote or maintain segregation and institutionalisation, rather than supporting inclusion in the community.

Further, the introduction of automated administrative decision-making raises significant transparency, accountability and fairness concerns, particularly where decisions about access and supports may be made without meaningful human oversight. As highlighted by the Commission in other contexts, such as automated aged care assessments,¹⁴ automation risks overlooking individual circumstances and entrenching systemic disadvantage, especially for people with complex or intersecting support needs.

Shifting care responsibilities

Several measures in the Bill aim to shift costs and care responsibilities away from the NDIS and onto other systems and individuals.¹⁵ This includes increased reliance on hospitals, health, aged care and other service systems, many of which are

already under strain or not equipped to provide ongoing disability supports. Where these systems cannot meet demand, responsibility is likely to fall back onto families, carers and informal supports.

This shift has predictable and disproportionate gendered impacts. Evidence shows that reductions in funded supports do not remove need, but instead transfer care responsibilities to unpaid carers, who are predominantly women, affecting their workforce participation, economic security and wellbeing.¹⁶ The Bill therefore risks reinforcing existing gender inequalities and entrenching structural reliance on unpaid labour.

The Bill should not proceed in the absence of a comprehensive, public gender impact analysis, and reforms that are co-designed with women, girls and gender-diverse people with disability. We note that Women With Disabilities Australia (WWDA) has also recommended this.

Conclusion

The NDIS must operate as a human rights-based scheme, ensuring that people with disability have access to individualised supports that enable dignity, autonomy, independence and participation in the community. The proposed reforms raise significant concerns about the extent to which this framework is being preserved.

For the reasons outlined above, the Bill should not proceed until it has been subject to appropriate scrutiny by the PJCHR and informed by meaningful, participatory engagement with the disability community.

We are available to provide further evidence and advice to assist the Committee in its consideration of these issues.

Yours sincerely



Rosemary Kayess
Disability Discrimination Commissioner

Phone: +61 2 9284 9722

Email: disability@humanrights.gov.au

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- ¹ *National Disability Insurance Scheme Act 2013* (Cth), s 3(1).
- ² *Convention on the Rights of Persons with Disabilities* (CRPD), art 1.
- ³ CRPD, art 19.
- ⁴ Committee on Economic, Social and Cultural Rights, *General Comment No. 3: The nature of States parties' obligations* (1990), UN Doc E/1991/23, para 9.
- ⁵ Department of the Prime Minister and Cabinet, *Working together to deliver the NDIS: Independent review into the National Disability Insurance Scheme - Final report*, Australian Government, 2023.
- ⁶ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 4, proposed s 34A.
- ⁷ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 4, proposed s 34A(3).
- ⁸ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 2, proposed s 48A and s 32B(2A), and proposed amendment to s 48 (*these amendments to the NDIS Act change the condition for when a plan reassessment request can be made and allow the CEO to bypass making a decision on the request, thereby limiting participant access to a review of the decision regarding a plan reassessment request*); Sch 1, Part 5, proposed s 50A(4)(b) (*introduces automatic plan renewals that do not involve reviewable decisions*).
- ⁹ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 1, proposed s 9B.
- ¹⁰ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 3, proposed amendment to s 34(1)(aa).
- ¹¹ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 6, proposed s 33(2EA) and Sch 1, Part 9, proposed s 25B(1)(a).
- ¹² NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 4, proposed s 34A; Sch 1, Part 6, proposed s 33(2EA) and s 33(2EB).
- ¹³ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 3, Part 2
- ¹⁴ Australian Human Rights Commission, *Commissioners welcome Ombudsman probe of automated aged care assessments* [media release], AHRC, 2026.
- ¹⁵ NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Cth), Sch 1, Part 9
- ¹⁶ Women with Disabilities Australia, *Gendered risks of the NDIS Amendment Bill 2026*, WWDA, May 2026.