



Bills Digest | 16 June 2026

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

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Key points

- The [National Disability Insurance Scheme Amendment \(Securing the NDIS for Future Generations\) Bill 2026](#) (the Bill) is the third tranche in the Albanese Government's [announced series](#) of legislative amendments in response to the [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#) and the [independent review of the NDIS](#). It also draws on the 2024 advice of the [NDIS Provider and Worker Registration Taskforce](#), and the findings of the Australian National Audit Office 2019 report into the [National Disability Insurance Scheme Fraud Control Program](#).
- The Bill is primarily aimed at reducing projected growth in NDIS expenditure and participant numbers, while strengthening fraud controls, provider regulation and governance arrangements.
- The Bill will make several significant amendments to the operation of the NDIS, including:
 - introducing a power for the Minister to reduce funding for specified groups of supports
 - amending access and planning arrangements, including by defining functional capacity, limiting participant-requested plan reassessments, expanding the circumstances in which a person's plan can be suspended, strengthening the link between supports and eligible impairments, changes to reasonable and necessary support provisions, and allowing consideration of access to other service systems
 - strengthening fraud, compliance and regulatory arrangements, including by changing the definition of NDIS provider, introducing civil penalties, expanding information-gathering powers, imposing record-keeping requirements, changing claiming timeframes and amending plan management arrangements

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- establishing a Ministerial pricing mechanism for NDIS supports and permitting automated administrative decision-making within the NDIS
- facilitating implementation of new framework planning arrangements and providing for transitional arrangements.
- The Bill was referred to Senate Community Affairs Legislation Committee on 14 May 2026 for inquiry, with the [final report due 16 June 2026](#). It was [reported](#) on 4 June 2026 that the Committee had received over 4,000 submissions though not all have yet been [published](#).
- The [Parliamentary Joint Committee on Human Rights](#) has raised substantial concerns with the Bill, noting that the measures in the Bill ‘would likely restrict access to the NDIS and reduce the availability of NDIS supports for participants, which, depending on the availability of alternative supports and services, could have an adverse impact on participants’ independence and quality of life and the accessibility and affordability of disability supports and services’. (p. 7)

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Date of introduction: 14 May 2026

House introduced in: House of Representatives

Portfolio: Health, Disability and Ageing

Commencement: Sections 1–3 and Schedule 5 commence on Royal Assent. Schedule 1 (Parts 1 to 3), Schedule 2 (Parts 1 to 4), and Schedules 3 and 4 commence on the seventh day after Royal Assent. Schedule 1 (Parts 4 and 7) commence on 1 October 2026. Schedule 2 (Part 5) commences on 1 December 2026. Schedule 1 (Parts 5 and 6) commence on 1 February 2027. Schedule 1 (Parts 8 and 9) commence on 1 January 2028. Schedule 2 (Part 6) commences on the earlier of Proclamation or the first day of the first calendar month 24 months after Royal Assent.

This Bills Digest replaces a preliminary Digest published on 25 May 2026 to assist in early consideration of the Bill.

The links to the Bill, its Explanatory Memorandum and second reading speech can be found on the [Bill's home page](#), or through the [Australian Parliament website](#).

When Bills have been passed and have received Royal Assent, they become Acts, which can be found at the [Federal Register of Legislation website](#).

All hyperlinks in this Bills Digest are correct as of June 2026.

Purpose of the Bill

The purpose of the [National Disability Insurance Scheme Amendment \(Securing the NDIS for Future Generations\) Bill 2026](#) (the Bill) is to amend the [National Disability Insurance Scheme Act 2013](#) (the Act) and other Commonwealth Acts to:

- introduce mechanisms intended to support the financial sustainability of the Scheme, including a power for the Minister to reduce funding for specified groups of supports
- amend access and planning arrangements, including by defining functional capacity, limiting participant-requested plan reassessments, expanding the circumstances in which a person’s plan can be suspended, strengthening the link between supports and eligible impairments, changing reasonable and necessary support provisions, and allowing consideration of access to other service systems
- strengthen fraud, compliance and regulatory arrangements, including by changing the definition of NDIS provider, introducing civil penalties, expanding information-gathering powers, imposing record-keeping requirements, changing claiming timeframes and amending plan management arrangements
- establish a Ministerial pricing mechanism for NDIS supports and permit automated administrative decision-making within the NDIS
- facilitate implementation of new framework planning arrangements and provide for transitional arrangements.

Structure of the Bill

The Bill has 5 Schedules:

- **Schedule 1** contains proposed access and planning amendments and a new definition of functional capacity
- **Schedule 2** contains proposed fraud, compliance and provider regulation amendments
- **Schedule 3** contains proposed governance amendments, including changes relating to pricing and automated administrative actions
- **Schedule 4** contains proposed technical amendments to support the implementation of new framework planning from a previous amendment
- **Schedule 5** contains transitional provisions.

Background

The Bill is the third in the Albanese Government’s [announced series](#) of legislative amendments in response to the [Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability](#) and the [independent review of the NDIS](#). It also draws

on the 2024 advice of the [NDIS Provider and Worker Registration Taskforce](#), and the findings of the Australian National Audit Office 2019 report into the [National Disability Insurance Scheme Fraud Control Program](#).

The Bill specifically responds to an imperative to reduce the rate of expenditure growth for the Scheme. At peak growth in 2022–23, expenditure on the NDIS increased 22% from the prior financial year (p. 55). The Albanese Government previously committed to an 8% growth rate for NDIS expenditure by 1 July 2026, with the latest growth rate figure at 11.3% for the 12 months to March 2026 (p. 12).

The [2026–27 Budget](#) projects a reduction in NDIS expenditure growth of \$37.8 billion over 4 years based on the reforms (p. 108).

Importantly, under the reforms proposed by this Bill and the previous amendments to the Act, the cost of the NDIS will continue to rise each year but at a lower rate than previous trajectories indicated (for trends see: [Annual Financial Sustainability Report 2024–25](#)).

Functional capacity

The concept of functional capacity has been part of determining eligibility to the NDIS [since commencement](#).

[Section 24](#) of the Act contains the disability requirements for eligibility to the NDIS, specifically that ‘the impairment or impairments [that a person has] result in substantially reduced functional capacity’. However, the Act does not currently contain a definition of functional capacity or substantially reduced functional capacity.

Generally, the concept of functional capacity is associated with the biosocial model of disability and refers to capacity resulting from the interaction between a person’s disability condition and the environmental and social factors they encounter.

A commonly cited definition of functional capacity is from the World Health Organization’s (WHO) [World Report on Ageing and Health](#) (2015) which defines it as:

the health-related attributes that enable people to be and to do what they have reason to value; it is made up of the intrinsic capacity of the individual, relevant environmental characteristics and the interactions between the individual and these characteristics. (p. 227)

The WHO also maintains an internationally recognised tool for assessing functional capacity known as the [International Classification of Functioning, Disability and Health](#) (ICF) which includes a wide variety of influential factors including access to assistive technology, environmental factors such as air quality or physical accessibility, and interpersonal relationships.

The 2023 [NDIS Review recommendations](#) included actions to adjust eligibility and needs assessment based on functional capacity:

Recommendation 3: Provide a fairer and more consistent participant pathway

Action 3.1: The **National Disability Insurance Agency** should introduce a more consistent and robust approach to determining eligibility for access to the NDIS based on transparent methods for assessing functional capacity.

...

Action 3.4: The **National Disability Insurance Agency** should introduce new needs assessment processes to more consistently determine the level of need for each participant and set budgets on this basis.

In his [Press Club address Minister Bulter stated](#) that the ‘access lists’ for entry to the NDIS based on disability diagnosis will be removed, and replaced with criteria for functional capacity:

The Bill I intend to introduce in the Budget sittings will allow us to introduce standardised, evidence-based assessments of a person’s functional capacity to determine access to the Scheme.

In line with the Scheme’s original intent, access will be based upon a significant reduction in a person’s functional capacity that impacts their day-to-day living.

It will also remove the use of lists that decide on a participant's eligibility based on diagnosis alone.

The most recent version of the National Disability Insurance Agency’s (NDIA) guidelines for [Applying to the NDIS](#) (published [online](#) 10 December 2024) includes the ‘access lists’ for conditions categorised as List A (i.e. those that are likely to meet the disability requirements) (pp. 32–34) and List B (i.e. those that are likely to result in a permanent impairment) (pp. 34–41).

[According to Minister Butler](#), the access lists will be replaced with standardised assessments of functional capacity, with an expectation of this and other eligibility measures reducing the number of participants on the NDIS:

While new eligibility rules need to be worked through, our initial modelling will see the number of people on the scheme reduce to around 600,000 by the end of the decade instead of growing to well over 900,000.

As at 31 March 2026 there were 774,456 NDIS participants ([NDIS Quarterly Report Q3 2025–26](#), p. 15). Should the Government reach its target number of participants, there would be around 174,000 fewer participants than are currently in the Scheme, as well as substantially less than earlier growth projections.

On changes to functional capacity definitions and measurements, NDIS expert Dr. Georgia van Toorn [noted that](#):

The shift to a more needs-based approach to assessment is a welcome one. But its effectiveness will ultimately depend on the integrity of the assessment tools and, crucially, the professionals using them.

Social and community participation supports

Minister Butler’s [address](#) noted a planned reduction in the funding category of social and community participation supports.

Social and community participation supports provide funding for activities that connect a person to social outcomes and community such as support to attend activity classes like choir or dance, or support visiting a library, or sports participation.

As described in the [NDIS Guidelines for Social and Recreation Supports](#), the NDIS funds additional support required to attend social and community activities based on a person’s needs.

The NDIS does not fund (p. 3):

- the basic cost of the activities that everyone would be expected to pay for, such as entry fees, registration and membership fees
- standard equipment a person needs to take part in a social or recreation activity, such as a standard tennis racket or soccer shoes
- participation in activities at professional or elite level
- support for a young child to attend or participate in social or recreation activities where parents would normally be expected to stay and support their child.

Based on [the latest NDIS payments data](#), as at 31 March 2026:

- spending for *Core supports: Social Community and Civic Participation* was \$11.9 billion for 368,692 participants
- spending for *Capacity building: Social Community and Civic Participation* was \$0.25 billion for 52,474 participants.¹

In his [speech](#), Minister Butler stated that while average plan spend is about \$31,000, changes to social and community support payments “will bring that figure back down to about \$26,000 – back to where it was in 2023” and that “this will have a material impact on participant plans”.

The proposed replacement for the reduction in social and community participation supports funding is [Foundational Supports](#), which are supports outside of the NDIS for all people with disability (including those on the NDIS) and funded by all Australian governments.

The concept of foundational supports and community inclusion was foremost in the [recommendations of the NDIS Review](#):

Recommendation 1: Invest in foundational supports to bring fairness, balance and sustainability to the ecosystem supporting people with disability

Recommendation 2: Increase the scale and pace of change in mainstream and community inclusion and accessibility and improve the connection between mainstream services and the NDIS.

As of 2 February 2026, National Cabinet finalised the [National Agreement on Foundational Supports](#), with an expected expenditure of around \$10 billion over 5 years:

The Parties co-fund Foundational Supports on an ongoing and equal basis. The maximum funding available for the first five years of this Agreement is capped at \$10 billion, with 50 per cent provided by the Commonwealth and 50 per cent provided collectively by the States on a per capita basis. (p. 3)

\$4 billion of this \$10 billion figure for foundational supports has [been committed to the Thriving Kids program](#) aimed at early intervention for children under 9. This is not a replacement for a reduction in social and community support funding for adults in the NDIS.

In the [2026–27 Budget](#) the government provided \$200.0 million over 3 years for alternative options to social and community supports (pp. 107–8).

1. Note that these participant numbers should not be combined due to risk of double counting as some participants may receive both Core and Capacity building supports.

Provider registration

In [his speech](#), Minister Butler announced the intention to expand categories for mandatory provider registration including for personal care, daily living supports, and supports provided in closed settings:

Not every provider needs to be fully registered. We don't need to monitor retail purchases from a chemist the same way we monitor close personal care of vulnerable people.

But we will expand categories of mandatory registration to include the higher risk activities – **personal care, daily living supports, and supports provided in closed settings**. [emphasis added]

Currently, NDIS providers of certain classes of supports under participants' plans must be registered under [section 73E](#) of the Act to provide those classes of supports. Part 2 of the [National Disability Insurance Scheme \(Provider Registration and Practice Standards\) Rules 2018](#) sets out which supports require mandatory registration (including specialist disability accommodation, use of regulated restrictive practices, and undertaking a behaviour support assessment or behaviour support plan).

The [NDIS Review recommendations](#) include a 'risk proportionate model' for providers:

Recommendation 17: Develop and deliver a risk-proportionate model for the visibility and regulation of all providers and workers, and strengthen the regulatory response to long-standing and emerging quality and safeguards issues.

The [NDIS Provider and Worker Registration Taskforce](#) (the Taskforce) was established to design the implementation of Recommendation 17.

The Taskforce produced a [list of the services and supports](#) that must be included in the proposed registration model (p. 24). For example, the list includes housing or home and living support; day programs in centre-based environments; in-home care to maintain hygiene mobility, social and economic participation; and support to access the community or engage in social participation.

The Taskforce also recommended that consideration be given:

... to capturing disability supports and services not funded by the NDIS but provided to people with disability, which are not otherwise regulated for quality and safe service delivery to people with disability. Examples might include Foundational Supports when the final form is determined. ([p. 24](#))

Policy position of non-government parties/independents

In April 2026, the Shadow Minister for Health and Aged Care, Senator Anne Ruston, [stated](#) that the Coalition's position was:

... that we will support any sensible reforms, practical, sensible reforms that restore the integrity and the sustainability of the NDIS and make sure that it is here for future generations of the people it was originally designed for. So, we very much support and are happy to work with the Government but we need more details about what the changes the Minister is actually proposing mean on the ground,

because we need to make sure that there's proper planning that sits behind what they're doing. But the principle of making sure we've got a sustainable NDIS into the future for the people it was designed to support is something the Coalition has always supported.

During debate on the Bill in the House of Representatives, the Opposition [proposed a number of second reading amendments](#), which were not passed.

During debate on referral of the Bill to the Senate Community Affairs Legislation Committee, [Senator Jordan Steele-John](#) of the Australian Greens stated the Bill is:

... proving to be the vessel for terrifying changes for disabled people, for the redefinition of what disability itself means in the eyes of the government, and the provision to the minister of vast new powers that will give government control over the lives of disabled people and our families, that will strip agency from our hands, that will reduce our choices.

The Australian Greens issued a media release stating [that Labor must not cut vulnerable people from NDIS supports](#).

The One Nation Party issued a [media release](#) claiming the Bill lacks detail and arguing that the NDIS should be means-tested.

Independent Member for Kooyong, Dr Monique Ryan, called for the government to [address fundamental flaws](#) in the design of reforms. During debate on the Bill in the House of Representatives a number of Independents [proposed amendments](#) which were not passed.

Financial implications

The financial implications of the Bill were highlighted in the 2026–27 Budget, which projected a reduction in expenditure growth of \$37.8 billion over four years ([2026–27 Budget Paper No. 2](#), p. 108).

The Budget projects a growth rate of expenditure of 2% within the next 4 years ([Budget Paper No. 1](#), p. 71). A 2% growth rate is significantly lower than the peak [22% expenditure growth in 2022–23](#) (p. 55), and is also lower than the [growth rate of around 5%](#) which Minister Butler notes is seen in other social programs such as Medicare and childcare.

A [financial projection document](#) tabled in the Senate on 27 May 2026 breaks down the \$37.8 billion figure according to reforms largely enacted by this Bill (p. [4]). The largest expenditure reductions are for reductions to social and community support funding at \$13.2 billion and changes to eligibility at \$9.3 billion over 4 years.

Even accounting for these reductions in expenditure, the NDIS is still projected to continue to be the third largest spending program after *Revenue Assistance to the States and Territories* and *Support for Seniors* ([2026–27 Budget Paper No. 1](#), p. 221).

Key issues and provisions

Schedule 1

Part 1: Defining functional capacity

Under section 18 of the Act, a person may make an access request to become a participant in the NDIS. Section 21 provides that a person meets the access criteria if the CEO of the NDIA is satisfied that the person meets the age requirement (that the person is under the age of 65 on the date the access request is made) and the residence requirements, and either the disability requirements in [section 24](#) or the early intervention requirements in [section 25](#).

A person meets the disability requirements if they have a disability that is attributable to one or more intellectual, cognitive, neurological, sensory or physical impairments or the person has one or more impairments to which a psychosocial disability is attributable. The impairment must be, or likely to be, permanent.

To be eligible for the NDIS under [paragraph 24\(1\)\(c\)](#) of the Act, a person's impairment or impairments must result in substantially reduced functional capacity in at least 1 key activity (that is, communication, social interaction, learning, mobility, self-care and self-management). As discussed above, the Act does not define 'functional capacity'.

Proposed subsection 9B(1) (at **item 4** of Schedule 1) defines functional capacity, in relation to an activity, as the person's ability to undertake the activity:

- without assistance from other people, assistive technology or modifications and
- in a context that excludes, as far as possible, the impact of the person's environmental and personal circumstance.

The Minister will have the power to make rules in relation to any matter regarding the definition of 'functional capacity' (**proposed subsection 9B(2)**). **Item 10** provides that these rules are 'category A' NDIS rules under [subsection 209\(8\)](#) of the Act. The Minister must not make category A NDIS rules unless the Commonwealth and each state and territory have agreed to the making of the rules.

The Minister will have the power to make rules prescribing methods or criteria for assessment of functional capacity, including thresholds relating to a person's ability to undertake an activity. This can enable use of a standardised assessment or test for functional capacity without further Parliamentary oversight.

Changes to functional capacity definitions and assessment processes form a significant part of the Government's projections to reduce NDIS expenditure by limiting who is eligible for the Scheme. The [financial projection document](#) tabled in the Senate on 27 May 2026 includes the line "Introduce an Objective Test of Functional Capacity" which is projected to reduce expenditure by \$9.3 billion over four years.

In their [joint submission](#) to the Committee, the Department of Health, Disability and Ageing (the Department) and the NDIA stated:

The Government's approach to defining functional capacity reflects an intentional alignment with the World Health Organization's International Classification of Functioning, Disability and Health

Framework (ICF), which distinguishes between “capacity” and “performance.” Under the ICF, capacity refers to an individual’s ability to execute a task or action in a standardised or controlled environment, whereas performance reflects what a person does in their actual lived environment, including the influence of supports, assistive technologies, and other contextual factors. (p. 5)

However, stakeholders have argued that the definition does not reflect the ICF. For example, the [NDIS Reform Advisory Committee](#) stated in its submission:

The proposal to remove all consideration of an individual’s circumstances from the functional capacity assessment goes against best practice in this area. For example, the **International Classification of Function** recognises the role of a person’s environment in the assessment of capacity, but this is explicitly ruled out in the Bill. To wholly disregard the holistic functional capacity standard set by the WHO decades ago is a retrograde measure. It rejects the social model of disability that has informed Australian policy for decades. It re-medicalises an entire population. The NDIS Review engaged people with disability specifically on this question, and did not recommend this approach. (p. 20, footnotes omitted)

The [Australian Human Rights Commission](#) argued that the 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. (p. 3)

The [Grattan Institute](#) submitted:

The result is a striking inconsistency in policy design. The government proposes to assess disability using a framework that rejects distinctions between ‘physical’ and ‘social’ forms of impairment, while simultaneously introducing funding policies that implicitly prioritise physical functioning over social and community participation. In effect, **the scheme would measure disability one way, but fund it another**. (p. 14, emphasis added)

Part 4: Support determinations

Part 4 introduces new provisions regarding financial sustainability and funding for supports.

Proposed section 34A (at **item 34**) allows the Minister to make a legislative instrument to determine reduced funding for groups of supports for the purposes of ensuring financial sustainability of the NDIS. It states the Minister may determine by legislative instrument:

- a percentage (lower than 100 per cent) by which a funding component amount for a specified group of supports is reduced for the duration that the determination is in force and
- the old framework plans that the determination applies to (which must be plans that come into effect on or after the day the determination commences).

As legislative instruments, determinations made by the Minister will not be subject to merits review (though will be subject to disallowance).

The [Minister has stated](#) the Government’s intention that the ‘social and community participation’ support category would be reset to 2023 levels of funding, however, the provision allows for any support category to be reduced up to 100% for all participants receiving funding in that category. The Department and the NDIA have [explained](#):

The use of support determinations is necessarily time limited as they only apply to old framework plans, which will begin to be phased out and replaced with new framework plans from 1 April 2027. While support determinations will not apply to new framework plans, budget rules for new framework plans will build in similar financial disciplines. (p. 9)

Stakeholders have raised concerns that these reductions would be experienced inequitably. The [Grattan Institute](#) noted that social and community participation spending is concentrated among people with highest functional needs, predicting an average annual reduction of about \$40,000 in these budgets for people in the Supported Independent Living or Specialist Disability Accommodation groups (those with the highest levels of need in the NDIS who live in supported accommodation) (p. 16).

In May 2026 an [Impact Analysis](#) report prepared by the Department identified that NDIS participants with psychosocial disability will be most impacted by a reduction in social and community participation funding, as well as ‘participants with a primary disability of visual impairment, Down syndrome, and Intellectual Disability’ (pp. 59–60).

The proposed provisions respond to the 2017 Federal Court decision in [McGarrigle v National Disability Insurance Agency](#), which [confirmed](#) the NDIS must fully fund a participant’s reasonable and necessary supports. The Bill makes clear funding reductions will apply even if it leaves a person with less funding than what is determined to be ‘reasonable and necessary’ for them.

While **proposed subsection 34A(3)** requires the Minister to have regard to the safety of participants when making a determination, ‘it does not set out detailed criteria, processes or a requirement to justify decisions’ (p. 3). The [Commonwealth Ombudsman](#) has advised that it ‘will be critical that the NDIA and the Commission are alive to unintended or unforeseen consequences of section 34A determinations and any adverse impacts on participant safety’ (p. 5). The Department and the NDIA have provided further guidance in their [submission](#) as to how this provision will operate:

The Bill requires that the Minister have regard to the safety of participants when making a support determination. **The Minister can inform themselves of this in any way that they consider appropriate.** At a minimum, it would require advice from the NDIA and from the department about the impacts of the proposed changes on participants and their families and carers. This would consider assessing evidence of the likely impacts on participant health and wellbeing, continuity of essential supports and equitable access to supports. This would include an assessment of system level risks and unintended consequences on vulnerable groups of participants. If relevant, it would also incorporate advice about whether the determination would have market impacts that could impact the safety of participants in the short and long term.

Where a support determination would have a ‘more than minor’ impact on individuals, an Impact Analysis will be required in accordance with the Australian Government Guide to Policy Impact Analysis. This would need to be completed before the Minister makes a support determination. All Impact Analyses are published on the website of the Office of Impact Analysis and are publicly available, ensuring accountability and transparency over how policy is developed and the anticipated impacts. (pp.10-11) [emphasis added]

Part 6: Reasonable and necessary supports

Item 60 will amend [section 3](#) (which sets out the objects of the Act) to limit the provision of supports to circumstances where it is consistent with the financial sustainability of the Scheme. According to the [Explanatory Memorandum](#) (EM):

Financial sustainability is concerned with the cumulative impact of funding across groups of supports and ensuring that responsibility for disability supports is appropriately shared across other mainstream service and community support systems. It is to be given effect through specific, structured constraints on decision making which determine to what extent particular supports may be funded as ‘reasonable and necessary’. (p. 47)

[Section 17A](#) of the Act currently sets out the ‘Principles relating to the participation of people with disability’. **Items 62-63** will rename this section to ‘Principles relating to participation and plans’ and introduce the following three principles with which NDIS must comply:

- where relevant, respect the role of family, carers and other persons who are significant in the life of participants
- where relevant, recognise and respect the relationship between participants and their families and carers; and
- support communities to respond to participants’ individual goals and needs.

[Section 31](#) of the Act outlines the core principles that must guide the preparation, variation, reassessment, and management of participants’ plans. In particular, section 31 provides that a plan should, as far as responsibly practicable, ‘be individualised’, ‘be directed by the participant’, and ‘be underpinned by the right of the participant to exercise control over his or her own life’.

Item 66 will repeal section 31. The [EM](#) asserts that the relevant principles from section 31 ‘will be included in amendments made to section 4 and new section 17B’ (p. 49). However, it appears that the rights-based principles, such as the right of the participant to exercise control over their life, will not be replicated elsewhere in the Act.

Item 61 will amend [section 4](#) (which lists the general principles guiding actions under the Act) to remove references to ‘reasonable and necessary’ supports and replace these references with ‘NDIS’ supports. As noted in the [EM](#), the amendments in Part 6 of the Bill will mean that ‘[i]n some cases, what is reasonable to fund may be less than the actual cost of a support’ (p. 46).

Proposed section 17B (at **item 65**) introduces ‘principles relating to Scheme sustainability’ which the CEO of the NDIA must have regard to in performing their functions and exercising their powers. These principles specifically include the following:

- the NDIS is to fund supports for participants to meet disability support needs that arise directly from impairments in relation to which participants meet the disability requirements or early intervention requirements
- the desirability of supporting communities to respond to the goals and needs of participants
- the financial sustainability of the Scheme, having regard to reports of the Scheme actuary under Part 6A of Chapter 6 of the Act.

Proposed subsection 17B(3) provides that participants should be responsible for day-to-day living costs, including costs incurred whether or not a person has a disability. The [EM](#) states:

The NDIS is intended to fund only disability related supports, not the ordinary expenses that everyone has. The NDIS is not intended to be a form of social security or income supplementation. This principle will also protect the financial sustainability of the Scheme as ordinary living costs are large and ongoing. Covering them would significantly expand spending and reduce the Scheme's ability to fund necessary disability supports for participants. (p. 49)

Item 67 inserts **proposed subsection 32K(6)** to require the Minister to take into account the principles in sections 17A and 17B, in addition to having regard to the financial sustainability of the Scheme as is currently required under subsection 209(3) of the Act, when making NDIS rules relating to working out the total funding amount for reasonable and necessary budgets for new framework planning. **Item 68** allows the Minister to determine maximum funding amounts, intensity or ratios for individual supports or classes of supports with respect to old framework plans.

The Grattan Institute has [noted](#) that reductions in supports would predominantly impact people who require higher levels of support:

... social and community participation cuts would strip the most support from the most vulnerable people in the NDIS. People in supported independent living or specialist disability accommodation – among those with the highest level of need in the NDIS – have average social and community participation budgets more than five times as high as other people in the NDIS – so will lose five times as much support.

Part 8: Tightening the meaning of permanence to reduce access where an impairment can be treated

The [EM](#) sets out how permanence is currently assessed under the Act:

Currently paragraph 24(1)(b) of the Act provides that in order for a person to meet the disability requirements, they must have an impairment or impairments that are, or are likely to be, permanent. Sub-paragraphs 25(1)(a)(i) and (ii) require a person to have an impairment that is, or is likely to be, permanent in order to meet the early intervention criteria (unless the person is a child with developmental delay).

The [National Disability Insurance Scheme \(Becoming a Participant\) Rules 2016](#) (Becoming a Participant Rules) set out (amongst other things) how to determine whether an impairment should be considered permanent, or likely to be permanent. Rule 5.4 provides that an impairment is, or is likely to be, permanent only if there are no known, available and appropriate evidence-based clinical, medical or other treatments that would be likely to remedy the impairment. (p. 61)

Item 89 inserts **proposed subsection 24(5)** which provides that impairment/s are not considered permanent or likely to be permanent unless:

- the person has undertaken all 'appropriate treatment' for the impairment/s
- any other treatments are unlikely to materially improve, reverse, or alleviate the impact of the impairment/s and
- the person's impairment or impairments are likely to persist for the person's lifetime.

Item 91 provides for an identical approach to assessing permanence of impairments when determining whether a person meets the early intervention requirements.

Proposed subsection 25A(1) (at **item 92**) defines ‘appropriate treatment’ as treatment that:

- a. is evidence-based;
- b. can reliably be expected to materially improve, reverse or alleviate the impact of the impairment(s); and
- c. is regularly undertaken or performed in Australia.

Proposed subsection 25A(2) clarifies that treatment may be appropriate treatment for a person’s impairment/s regardless of whether the person’s individual circumstances restrict the person from accessing the treatment (including their financial circumstances and geographical location).

The Member for Indi, Dr. Helen Haines, [stated](#):

As drafted, the bill creates an extra barrier for people in rural and regional Australia, because ... [the provision] explicitly states that a treatment might still be appropriate for someone whose geographical or financial circumstances actually prevent them from accessing it.

Dr Haines proposed an [amendment](#) in the debate of the Bill in the House of Representatives, which would have provided that treatment may not be appropriate if the person’s individual circumstances restrict the person from accessing the treatment.

Stakeholders have also raised concerns about equity of access for people living regionally and those who cannot afford treatment. The [Justice and Equity Centre](#) argued:

... the requirement to try ‘all appropriate treatment’ could have unfair or unpredictable impacts. For example, if a treatment might result in improvements over many years, but the person would still have substantially reduced functional capacity, they may be prevented from accessing the NDIS in the meantime. It could also make it harder for people with progressive conditions to access the NDIS, even where treatment only slows, but does not reverse, the deterioration of their functional capacity ... If these requirements are introduced, the wording must be carefully considered to prevent unfair or unintended outcomes. (p. 3)

The [Commonwealth Ombudsman](#) stated that they are:

... concerned these changes could lead to discriminatory outcomes for people with disability who cannot afford to seek appropriate treatments or live in a location where appropriate treatments are not reasonably accessible. While the NDIA is not responsible for ensuring people with disability have access to other support systems to seek appropriate treatments, the theoretical existence of these systems will not necessarily match reality in all cases. The NDIA may find itself making unfair or unreasonable NDIS access decisions (including for people currently in the scheme having their eligibility reassessed) by applying the proposed universal test in circumstances where the agency should be reasonably aware that ‘all appropriate treatments’ are not available to a particular individual. (pp. 4–5)

The [Parliamentary Joint Committee on Human Rights](#) considered that these amendments do not take into consideration the whole of the NDIS Review:

Alongside recommending legislative change to strengthen the operation of the permanence criteria, the NDIS Review stated that this change should occur while also ensuring the availability and affordability of supports for people with disability outside the NDIS, following the Federal Court decision known as [National Disability Insurance Agency v Davis](#). The NDIS Review further stated that such legislative reform ‘should be complemented by reforms to significantly increase support outside of the NDIS’. (p. 23)

Proposed subsections 25A(3)–(4) provide that a person is taken to have undertaken all appropriate treatment for an impairment/s:

- if there is a medical reason that a person cannot undertake what would otherwise be appropriate treatment or
- in circumstances determined in category D NDIS rules (the Minister must consult with state and territory governments before making these rules, but their agreement is not required).

Proposed subsection 25A(5) clarifies that NDIS rules made for this purpose may make different provision for different classes of participants and different impairments or classes of impairments.

Part 9: Eligibility based on access to other services

Part 9 inserts provisions into the Act that will make applicants ineligible for the NDIS if they are accessing alternative supports through other systems.

To become a participant in the NDIS, the CEO of the NDIA must be satisfied the person meets the relevant access criteria ([section 21](#) of the Act). **Item 96** amends subsection 21(1) to provide that this includes being satisfied the person meets the ‘alternative support requirements’.

Proposed subsection 25B(1) (at **item 97**) provides that a person meets the ‘alternative support requirements’ where:

- the person **is not included** in a class of persons prescribed by the rules
- the circumstances prescribed in the rules **do not apply to the person** and
- if the person meets the disability requirements, or the early intervention requirements, in relation to one or more impairments—at least one of those impairments **is not an ‘excluded impairment’**.

The Bill sets out when an impairment is considered to be an ‘excluded impairment’:

- where a person’s impairment is from a motor vehicle accident or work-related injury and is covered by a compensation scheme or other benefits (**proposed subsections 25B(2)–(3)**); and
- where the Minister, with state and territory agreement, has determined via delegated legislation that a support is an alternative support for an impairment (**proposed subsection 25B(4)**). According to the EM ([p. 66](#)), this could include referencing the system of service delivery (for example the aged care system) or by reference to particular impairments (for example, some chronic health conditions). These amendments may be applicable to [foundational supports](#), including the [Thriving Kids](#) program.

These provisions may result in disproportionate impact on certain communities, including Aboriginal and Torres Strait Islander people who [qualify for aged care from 50 years](#) even though they may still be eligible for the NDIS until 65. The Minister may determine that Aboriginal and Torres Strait Islander people may receive care via the aged care system rather than the NDIS, even if the NDIS provides more individualised and well-suited supports.

The [Grattan Institute](#) writes that the proposed speed of implementation of these provisions before adequately establishing other support systems such as foundational supports and Thriving Kids may leave people with disability vulnerable:

Without well-funded and carefully scoped foundational supports, there is a risk people will be left without the help they need when changes to NDIS eligibility commence from January 2028. (p. 9)

These amendments would also change the effect of [National Disability Insurance Agency v Sutherland](#) (2026) in which the Federal Court [determined](#) that access to the NDIS could not be denied because other supports might be available, and that those other supports are to be taken into account in the planning process to design complementary supports.

Schedule 2:

Parts 4 and 5: Retention of records and reducing claim times

The Bill introduces new requirements for record keeping by participants, nominees and providers.

Proposed section 45B (at **item 83** of Schedule 2) requires certain persons to keep specific kinds of records or evidence relating to claims and the provision of supports for a specified minimum period (3 years for participants, 5 years for nominees and 7 years for providers). The kinds of records that need to be kept will be set out in the rules. Providers will be subject to a maximum civil penalty of 120 penalty units for failing to comply with this requirement (**proposed subsection 45B(3)**). (A penalty unit is currently \$330, subject to indexation every three years from 1 July 2026: [Crimes Act 1914](#), section 4AA).

If a claim is paid and a person does not keep a specified record, the person will owe a debt to the NDIA (**proposed subsection 182(4)**, at **item 86**). The Bill reduces the time to make a claim from 2 years to 90 days, with late claims only allowed in exceptional circumstances (**proposed paragraph 45A(5)(a)**, at **item 89**).

The [Commonwealth Ombudsman](#) noted:

... legislating that failure to keep records turns payments into debts has the potential to be a very blunt instrument for driving compliance: this may overly penalise inadvertent non-compliance and may also in effect unfairly shift a provider's compliance burden to a participant. (pp. 6–7)

Schedule 3

Part 2: Automation of administrative action

The Bill allows the CEO of the NDIA to use automated decision making for decisions about the payment or rejection of claims, and approving old framework plans, as well as other 'administrative actions' (**proposed sections 59B and 59C**, at **item 11** of Schedule 3).

The Minister will have the power to specify, by legislative instrument, additional provisions in relation to which the CEO may allow a computer program to take administrative action (**proposed subsection 59C(2)**). The [EM](#) notes that the delegation of this power is to enable the Minister to 'authorise computer based administrative actions only once the work has

been done to ensure those provisions are appropriate for automation’ (p. 133). Other actions that may be subject to automation include decision-making around new framework planning and decisions about whether a prospective participant meets the age or residency requirements under sections [22](#) and [23](#) of the Act ([p. 133](#)).

Regarding reform for automation, Dr. Georgia van Toorn [states that](#) the algorithms and automated decision-making apparatus must be open to scrutiny:

Where computational systems are used to support decision-making, they must be carefully designed to augment professional expertise and be flexible enough to accommodate individual circumstances ...

If algorithms are going to determine who gets support and who goes without, then the entire apparatus – including the algorithm itself, its modelling, classification rules and training data – must be open to scrutiny.

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