

Submission to the Senate Community Affairs Legislation Committee on the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026

June 2026

Northern Territory Public Guardian and Trustee

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Executive summary

The Northern Territory Public Guardian and Trustee welcomes the opportunity to provide a submission regarding the National Disability Insurance Scheme Amendment (Future Generation of Supports) Bill 2026.

This submission draws on the Public Guardian and Trustee's statutory role supporting adults with impaired decision-making capacity, its systemic advocacy functions and extensive engagement with Aboriginal¹ people with disability, National Disability Insurance Scheme (NDIS) participants and vulnerable Territorians across urban, regional, remote and very remote settings in the Northern Territory.

The Public Guardian and Trustee considers that efforts to improve NDIS sustainability should have a primary focus on addressing fraud, misuse of funds and provider non-compliance while also continuing to strengthen administrative and operational efficiency within the National Disability Insurance Agency (NDIA). There is concern that some proposed amendments may reduce access to supports for legitimate participants with permanent and complex disability support needs. While the Public Guardian and Trustee acknowledges the importance of ensuring the long-term financial sustainability of the NDIS, there is concern that many of the proposed reforms place a disproportionate burden on participants, families, carers and substitute decision-makers, particularly those already navigating highly complex support systems and significant social disadvantage.

The Public Guardian and Trustee's operational experience is that many represented persons² experience unmet need and under-utilisation of supports due to workforce shortages, provider instability, thin markets and service access barriers, rather than excessive service provision.

The Public Guardian and Trustee is particularly concerned that several proposed amendments may unintentionally increase barriers to accessing and maintaining disability supports for participants with complex needs, particularly Aboriginal participants, participants living in remote communities and participants with impaired decision-making capacity. Of particular concern are reforms that increase reliance on mainstream systems and foundational supports that may be unavailable in practice. The proposed changes also narrow reassessment pathways, assume the availability of informal supports and permit suspension or revocation of plans where participants experience disengagement arising from vulnerability, cognitive impairment, homelessness or systemic barriers rather than reduced need.

The Public Guardian and Trustee supports reforms that strengthen supported decision-making, improve safeguarding, increase oversight and promote culturally safe trauma-informed practice. The Public Guardian and Trustee also supports improved coordination between mainstream government systems and the preservation of flexibility for participants with complex and lifelong support needs.

¹ For the purposes of this submission, the term "Aboriginal" is used inclusively to refer to First Nations peoples, including Aboriginal and Torres Strait Islander peoples.

² "Represented person" means an adult for whom a guardianship order is in force or has made an advance personal plan that is in force and appoints a decision maker.

About the Public Guardian and Trustee

The Public Guardian and Trustee provides guardianship, advocacy, information, education and financial management services, supporting adults with impaired decision-making capacity to exercise their rights and participate in decisions about their personal lives and finances to the greatest extent possible. These functions are exercised under the *Guardianship of Adults Act 2016* (NT), *Advance Personal Planning Act 2013* (NT), *Health Care Decision Making Act 2023* (NT) and other relevant legislation.

The Public Guardian and Trustee is committed to promoting autonomy, dignity, inclusion and supported decision-making. Its work is aligned with the principles of the *United Nations Convention on the Rights of Persons with Disabilities*, which recognises the right of all people to make their own choices and participate fully in society.

The Public Guardian and Trustee supports adults with impaired decision-making capacity resulting from a range of impairments, including intellectual disability, acquired brain injury, psychosocial disability, neurodevelopmental conditions and dementia (See Figure 1).

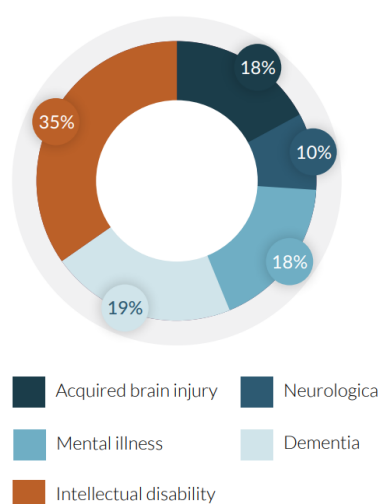


Figure 1- Percentage of persons with guardianship orders involving the Public Guardian and/or Public Trustee 2024-25 by primary impairment

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The Public Guardian and Trustee regularly engages with the NDIS in its roles as guardian, advocate and financial manager for adults with impaired decision-making capacity. This includes making or supporting decisions regarding NDIS access, planning reviews and service arrangements, advocating for appropriate supports, monitoring the adequacy of funded services, and responding to safeguarding concerns where they arise. The Public Guardian and Trustee seeks to ensure that represented persons can access supports that reflect their rights, will and preferences and enable their full participation in community life.

³ Public Guardian and Trustee Annual Report 2024-2025.

The Northern Territory context

The Northern Territory presents unique challenges for the delivery of disability and other essential services due to its vast geographic size, dispersed population and high proportion of residents living in regional, remote and very remote locations. Service delivery is affected by thin markets, workforce shortages, limited transport and infrastructure, digital exclusion, and extreme weather conditions that can disrupt access to communities and services.

These factors can significantly impact a participant's ability to access supports, engage with NDIS processes and maintain service continuity. As a result, reforms that may operate effectively in metropolitan areas can have different and often greater impacts in the Northern Territory.

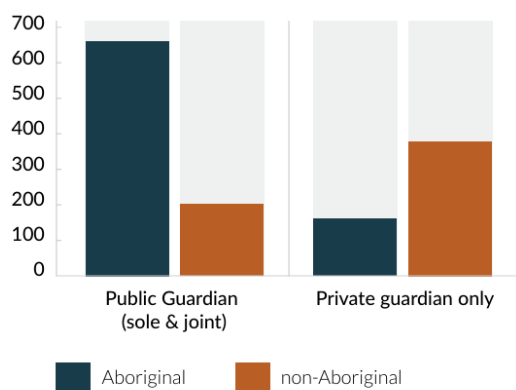


Figure 2 - Guardianship type in 2024-25 by Aboriginal and Non-Aboriginal identity

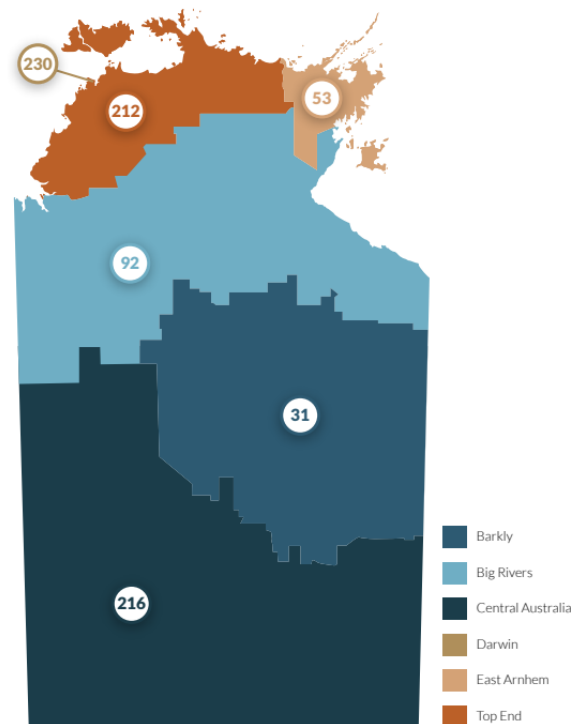


Figure 3 - Primary location of persons with guardianship orders where Public Guardian and/or Public Trustee appointed in 2024-25

A significant number of adults supported by the Public Guardian and Trustee for decision making identify as Aboriginal and most reside in regional, remote and very remote communities.

These regional and remote communities often experience limited or non-existent disability service markets, chronic workforce shortages, language and literacy barriers, digital exclusion and significant gaps in mainstream health, housing and crisis supports. Thin markets and limited provider availability continue to create substantial barriers to accessing appropriate disability services, particularly when combined with the broader challenges experienced across the Northern Territory.

Aboriginal participants in the Northern Territory frequently experience intersecting disadvantage associated with poverty, overcrowded housing, trauma, racism, justice-system involvement and reduced access to culturally safe services. These factors directly impact a participant's ability to engage with the NDIS, maintain stable supports and navigate increasingly complex administrative systems. The Public Guardian and Trustee is concerned that reforms increasing procedural complexity or reliance on mainstream systems may disproportionately disadvantage Aboriginal participants, particularly in remote and very remote communities.

Key concerns regarding the proposed amendments

Schedule 1 – Access and planning measures

Refining the meaning of ‘functional capacity’

The proposed amendments are designed to:

- Create a clear definition of functional capacity (how well someone can function day to day) and
- Later introduce more standardised assessments to make access decisions fairer and more consistent.

The Public Guardian and Trustee acknowledges the intention of the proposed amendments to promote greater consistency and objectivity in NDIS eligibility and assessment processes. However, there is concern that the proposed changes to the definition and assessment of functional capacity may operate to narrow eligibility criteria in practice, resulting in some existing participants losing access to supports if they do not satisfy the new assessment framework.

It also remains unclear whether the amendments are intended to apply only to future access decisions or may be retrospectively applied through reassessment processes creating uncertainty for represented persons who rely on the continuity of NDIS supports to maintain day to day stability.

The Public Guardian and Trustee therefore considers that a “grandparenting” approach should be strongly considered to protect existing participants from unintended loss of eligibility or supports arising from changes to functional capacity definitions and assessment. Such an approach would provide greater procedural fairness, continuity and safeguarding protections while allowing new assessment frameworks to be implemented prospectively.

The provisions also allow significant discretion to be set through NDIS Rules. The amendments would allow the Government to determine:

- What assessment methods or tools must be used,
- What thresholds a person must meet to qualify,
- What factors can or cannot be considered when assessing disability impact, and
- Circumstances where certain impairments or impacts are automatically treated as existing, or not existing.

These broad discretionary powers may undermine the above objectives and risks reducing transparency and certainty regarding access to the NDIS. There is also risk that eligibility and support decisions may become increasingly influenced by policy or financial considerations rather than individual disability-related support needs.

Restrictions on reassessment requests

The proposed amendments are intended to tighten control over when a participant can ask for their plan to be reassessed and who can make that request. The changes will include:

- Participants only being able to request a reassessment if they can show there has been a ‘significant and ongoing change in the participant’s functional capacity and support needs’.
- Support coordinators, plan managers and other intermediaries will no longer be able to initiate reassessment requests unless they are formally authorised to act for the participant.
- Stricter rules around how often reassessments can be requested and what evidence is needed.

Many represented persons depend on support coordinators, service providers, advocates, family

members and other supporters to identify changes in support needs, gather evidence and assist with engagement with the NDIS. In Public Guardian and Trustee's operational experience, these formal and informal supports play an integral role in identifying breakdowns in support arrangements, emerging risks, deterioration in functioning or unmet care needs that may require reassessment.

If these changes make it more difficult for support coordinators and other support providers to request plan reassessments, the Public Guardian and Trustee is concerned that responsibility for progressing reassessments will increasingly shift to guardians. Guardianship is fundamentally a decision-making function and relies on the expertise and operational knowledge of Support Coordinators and other providers to gather evidence, engage with service providers and navigate NDIS processes. Requiring guardians to undertake these functions risks detracting from their core role and may delay participants' access to necessary plan reviews and adjustments.

For represented persons, unscheduled plan reassessments are required due to significant and often unforeseen and ongoing changes in circumstances that they are unable to anticipate, manage or respond to independently. The proposed amendments appear to assume that a person's circumstances remain static and unchanging, which does not reflect the complex and fluctuating nature of disability and support needs experienced by many represented persons.

The Public Guardian and Trustee has observed multiple situations where urgent reassessment was required following provider withdrawal, behavioural deterioration, family breakdown, homelessness or changes in forensic supervision arrangements. In many cases, support coordinators or informal supports played a critical role in identifying escalating risks and facilitating urgent engagement with the NDIS.

The Public Guardian and Trustee is further concerned that restricting reassessment pathways and who can apply may create barriers for vulnerable participants. From a safeguarding perspective delaying reassessments until changes become "significant" could result in participants reaching crisis point or losing continuity of care before additional supports are made available. Early intervention opportunities may be lost if participants are required to demonstrate substantial change before plans can be reassessed.

Plan suspension

Currently, if a NDIS participant cannot be contacted, does not respond to requests for information, or refuses to take part in a plan reassessment, their plan may continue automatically. The NDIA considers that this creates risks because it cannot confirm whether the participant still needs the same supports, or whether NDIS funding is being used appropriately.

The proposed amendments would allow the NDIA to suspend a participant's plan where reasonable attempts have been made to contact them, but they do not engage. During a suspension, NDIS funding cannot be used, and the participant cannot request changes to their plan. If the participant remains uncontactable for more than 90 days, the NDIA could also revoke their status as a NDIS participant.

In the Northern Territory context, many represented persons experience unstable living arrangements, transient contact details, limited phone or internet access, and reliance on third parties to engage with government systems. In addition, some Aboriginal participants may experience historical and ongoing distrust of government systems and agencies, which may contribute to reluctance or hesitation in engaging with the NDIS. As a result, a failure to respond to contact attempts may not indicate that a participant no longer requires supports, but rather reflect the practical, cultural and systemic barriers they face in maintaining engagement.

The proposed suspension and revocation powers create a significant risk that represented persons could lose access to essential disability supports due to disengagement arising from vulnerability, rather than ineligibility. Suspension of a plan may also have immediate consequences for a participant's stability where essential daily living supports, behavioural support, community access

supports or supported accommodation arrangements are disrupted.

From an operational perspective Public Guardian and Trustee also foresees decision-making responsibilities associated with responding to plan suspensions or revocations of participant status. This is likely to require Public Guardian and Trustee staff urgently liaising with care teams and support coordinators to assess risks, coordinate responses and facilitate the reinstatement of essential disability supports.

The Public Guardian and Trustee has observed situations where represented persons living in remote communities became temporarily disengaged from NDIS processes due to hospitalisation, homelessness, changes in accommodation, periods of incarceration, cognitive deterioration or lack of access to phones and internet services. Similar risks may also arise for other participants experiencing significant vulnerability or instability, including people experiencing homelessness, mental ill-health, family violence, substance misuse, cognitive impairment, social isolation, acute health episodes, or unstable accommodation arrangements in urban and regional settings. Participants who rely heavily on carers, family members or service providers to manage communication with the NDIS may also become unintentionally disengaged where those supports break down. In these circumstances, disengagement represents heightened vulnerability and instability, not reduced support needs.

Support determinations

The proposed amendments would allow funding for certain categories of NDIS supports to be reduced across groups of participants without completing an individual review of each participant's plan. A support category reduction could be considered where a category is overfunded or too expensive across the NDIS. These reductions would apply automatically at the plan commencement date and would mean that participants could have funding reduced even if their support needs have not changed.

The Public Guardian and Trustee is deeply concerned that the use of broad support determinations risks undermining the fundamentally individualised nature of the NDIS. Reductions applied across categories of supports may occur without adequate consideration of a represented person's unique circumstances, individual needs and the often-fluctuating nature of their support requirements. Broad support determinations also risk value judgments being made about the purpose, necessity or importance of certain supports without properly recognising the practical role those supports play in maintaining a participant's stability, dignity and community participation. For example, supports categorised as "social and community participation" may in practice enable a participant to attend medical appointments, undertake essential daily activities such as grocery shopping, develop employment skills, or operate a microbusiness.

The Public Guardian and Trustee is particularly concerned about proposals that may reduce access to social and community participation supports in response to concerns about poor provider practices. While instances of inadequate service delivery, including support workers failing to meaningfully engage with participants during support shifts, should be addressed, these issues reflect shortcomings in provider conduct rather than a lack of value in the supports themselves. Social and community participation supports can play a critical role in reducing isolation, building skills, fostering independence and promoting inclusion within the community. The Public Guardian and Trustee considers that efforts to improve Scheme sustainability and value for money should focus on strengthening provider quality, oversight and accountability mechanisms, rather than limiting access to supports that many participants rely upon to achieve meaningful outcomes and maintain their connection with the community.

Plan renewals

In practice, the proposed amendments mean that many represented persons may continue receiving similar supports each year without needing to undergo a full reassessment. However, any unspent funding from a previous plan period would no longer be capable of carrying across into renewed plans. While the explanatory memorandum suggests that the rollover of unspent funds has contributed to inflated plan values over time, this is not consistent with the Public Guardian and Trustee's operational experience.

The Public Guardian and Trustee does not commonly observe represented persons accumulating rolled-over funding in practice. It is commonly observed that plans are rolled over from year to year, but the newly created plan only reflects the original annual funding. It is important to note that where underspending does occur, it is often linked to systemic barriers rather than participants having reduced support needs. Unspent funding frequently reflects an inability to access appropriate services, due to workforce shortages, provider instability, limited provider availability and broader service access barriers.

The Public Guardian and Trustee's operational experience is that many represented persons experience unmet need and under-utilisation of supports, rather than excessive service provision or inflated plan funding.

Reasonable and necessary supports

The amendments tighten the rules on what it will fund as "reasonable and necessary supports" to make decisions more consistent and keep the scheme financially sustainable. Overall, these amendments may reduce or standardise funding and shift decisions away from broad interpretation to stricter cost and policy limits.

The proposed amendments include:

- Defining limits on what the NDIS should pay for (based on fairness across government services and budget constraints).
- Cheaper or value for money supports must be considered.
- Presumptions that parents are responsible for providing a substantial level of care and support for their children.
- Considering what is reasonable to expect family, carers and informal networks to provide.
- Adding stronger rules about value for money and effectiveness, and
- Allowing government to set maximum funding limits for certain supports.

The Public Guardian and Trustee's greatest concern relates to the increased reliance on family, carers and informal supports within decision-making about what is "reasonable and necessary". Many represented persons have limited, fractured or non-existent informal supports and require intensive assistance to engage with services, maintain housing, attend appointments, manage risks and participate safely in the community. Even where family members are present, support arrangements are often highly informal, unstable or impacted by carer fatigue, trauma, financial stress, geographic isolation or intergenerational disadvantage.

The Public Guardian and Trustee is concerned that the amendments may create unrealistic assumptions about the availability and sustainability of informal supports, particularly for people who are socially isolated, long-term disengaged from services, homeless, involved in the justice system, or experiencing significant cognitive or psychosocial impairment. These individuals should not be expected to rely on informal supports that may not exist, may be unsafe, or may be incapable of meeting the complexity of their support needs. The amendment also fails to define any reasonable limits on expectations surrounding informal family supports, creating uncertainty as to whether ageing parents may effectively be expected to continue providing substantial care to adult children indefinitely. This raises serious concerns where elderly parents may be implicitly relied

upon to support adult children with significant disability-related needs despite their own declining and often increasing care needs.

The Public Guardian and Trustee urge the NDIA to recognise that it is unreasonable, inequitable and potentially discriminatory to impose substantially greater caring, financial and administrative demands on families solely because a family member has a disability. Parents, siblings and carers of people with disability should not be expected to assume responsibilities far beyond those ordinarily experienced within family units not dealing with cognitive and/or physical disabilities simply because formal supports are unavailable, reduced or deemed to be replaceable by “informal supports”.

In the Northern Territory context, the Public Guardian and Trustee frequently work with represented persons who are socially isolated, estranged from family, transiently housed or living in communities where family members are already providing substantial unpaid care and support across multiple generations. Assumptions regarding the availability and sustainability of informal supports may therefore create unrealistic expectations and increase safeguarding risks for vulnerable participants.

The Public Guardian and Trustee is concerned that the removal of the planning principles may fundamentally alter the framework through which reasonable and necessary supports are considered and applied in practice. These principles currently emphasise individualised and participant-directed planning, recognition of the role of families and carers, support for building family and carer capacity, consideration of informal supports, participant choice and control, and flexible responses to individual needs. The removal of these principles risks significantly weakening the original intent of the NDIS as a person-centred scheme focused on tailored supports and social inclusion, particularly for participants with complex needs and limited natural supports.

Changes to “permanence” requirements

The proposed amendments introduce stricter requirements regarding what constitutes a “permanent” disability for the purposes of accessing the NDIS, with increased emphasis on treatment pathways and the potential for functional improvement.

Amendments include clearer rules about:

- What treatments a person is expected to try, and
- When a condition is considered permanent enough for NDIS access.

In practice, the reforms may make it more difficult for some people to access the NDIS where there is potential for improvement through medical treatment, rehabilitation or therapy, with greater reliance placed on mainstream health systems instead.

From the Public Guardian and Trustee’s perspective, the proposed requirement that a person undertake “all appropriate treatment” before an impairment can be considered permanent raises significant practical and safeguarding concerns. Many represented persons experience disabilities that directly affect insight, decision-making, treatment engagement, motivation, cognition or behavioural regulation. In some cases, a person may be unable to consistently engage with treatment because of the very impairment forming the basis of their disability.

The Public Guardian and Trustee is concerned that the amendments may create an unrealistically high threshold for establishing permanence, particularly for people with complex, fluctuating or progressive conditions such as acquired brain injuries, psychosocial disabilities and degenerative neurological conditions. Many represented persons continue to receive treatment aimed at maintaining function, slowing deterioration or improving quality of life despite having clear and enduring disabilities requiring long-term support.

There is also uncertainty regarding what constitutes “all appropriate treatment” and what degree of improvement would prevent a condition from being considered permanent. Treatments may offer

only limited or temporary improvement without materially changing a person's long-term functional capacity or support needs. The Public Guardian and Trustee is concerned that represented persons may be required to undertake prolonged treatment or rehabilitation pathways before becoming eligible for essential disability supports.

These concerns are heightened in the Northern Territory context, where access to specialist treatment, rehabilitation services and inpatient rehabilitation beds is limited. The Public Guardian and Trustee has observed situations where represented persons experienced significant delays accessing rehabilitation, specialist neurological assessment or psychiatric treatment due to workforce shortages and limited-service availability in remote and regional areas. In practice, requiring completion of extensive treatment pathways prior to recognising permanence may delay access to essential disability supports for prolonged periods.

Eligibility based on access to other services

The proposed amendments mean some people may no longer be able to access the NDIS or might find it harder to remain eligible, where responsibility for their supports is considered to sit within another service system.

For example:

1. An older person may be directed to the aged care system.
2. Someone injured in a car accident may be expected to rely on compensation schemes.
3. A person with certain chronic health conditions may be told their supports should come through the health system.

The Public Guardian and Trustee's experience is that disability needs rarely present in isolation and often intersect with broader, systemic social services such as housing, health, hospitals, aged care, corrections, mental health, alcohol and other drug services and family violence services.

Many represented persons in the Northern Territory already experience significant barriers accessing and engaging with mainstream supports, particularly where service systems are underfunded, fragmented, subject to inconsistent eligibility criteria, severely limited in capacity, or entirely non-existent. Even where services do exist, they often do not provide the intensity, continuity or disability-specific supports available through the NDIS, resulting in significant service gaps for people with complex needs.

The Public Guardian and Trustee notes the broader reform direction toward increased reliance on mainstream service systems and the introduction of foundational disability supports. While stronger foundational disability supports may provide earlier intervention and lower intensity disability assistance for some people, there is concern that these supports remain underdeveloped and are unlikely to adequately meet the needs of participants with complex or high-risk support needs. Separately, many mainstream systems in jurisdictions such as the Northern Territory are already under significant strain and are frequently unable to provide accessible, consistent or disability-responsive services. Without substantial investment, clearly defined responsibilities and strong accountability mechanisms across both systems, there is a risk that participants may experience service gaps and diminished safeguarding protections.

The Public Guardian and Trustee notes that plans with relatively modest funding for targeted supports can often make the greatest difference to a participant's long-term independence, wellbeing and participation in the community. The level of funding in a participant's plan should not be regarded as an indicator that their disability is any less significant or that its impact on their daily functioning is any less substantial. It is important to recognise that disabilities such as autism and psychosocial disability can be just as functionally impactful as other forms of disability, even where support needs may be less visible or fluctuate over time. Supports focused on skill development, capacity building and community participation can deliver significant long-term benefits. For example, assistance to develop employment-related skills and secure employment may reduce a

person's reliance on income support payments, increase social and economic participation and improve overall life outcomes. Limiting access to these types of supports in pursuit of short-term savings risks overlooking their preventative value and may ultimately result in greater long-term costs across government service systems. The Public Guardian and Trustee considers that these broader benefits should be carefully taken into account when developing reforms or eligibility settings that may affect access to the NDIS, to ensure that short-term savings do not come at the expense of sustainable outcomes for participants and communities.

Tightening NDIS eligibility on the basis that alternative supports may be available creates a significant risk that vulnerable individuals could experience delays, disputes between systems, or reduced supports where other services are non-existent, unwilling, inaccessible or unable to meet their needs in practice.

These concerns are consistent with findings of the *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability* regarding fragmented service systems, thin markets, safeguarding failures and the heightened vulnerability of people experiencing intersecting disadvantage that contributes to the ongoing abuse, neglect and exploitation of people with a disability.

Direct relationship between supports and impairment

The proposed amendments aim to clarify that the NDIS will only fund supports directly related to the impairment a person qualified for the NDIS with, not other conditions or related issues. The changes are intended to create more consistent decision-making and respond to court decisions that had broadened access beyond the original intent of the NDIS. In practice, this may mean people with multiple conditions cannot access NDIS funding for supports linked to conditions that do not independently meet NDIS eligibility requirements. This approach does not adequately recognise that disability, health conditions and functional impairments are often highly interconnected and cannot always be separated neatly in practice. A narrow interpretation risks overlooking the cumulative impact of co-existing conditions on a person's daily functioning and may ultimately contribute to declining functional capacity and increased long-term support needs.

While the explanatory examples provide some reassurance that interconnected support needs may still be recognised, it remains unclear how this will operate in practice.

The explanatory memorandum to the NDIS amendment bill provides examples which suggest that supports associated with secondary health conditions may continue to be funded where they are connected to the functional impacts of a participant's disability. For example, one scenario describes supports being provided in relation to a secondary condition where they are necessary for a participant to effectively use disability-related assistive technology. Similarly, another example indicates that supports such as assistance with medication management and meal preparation may remain funded where a participant's disability limits their capacity to independently manage their diabetes, even though the clinical treatment of diabetes itself is not an NDIS responsibility. From a Public Guardian and Trustee perspective, these examples are important because they recognise that participants' disability-related support needs cannot always be neatly separated from coexisting health conditions, and that functional support requirements often arise from the interaction between disability, health and daily living needs.

In practice, the Public Guardian and Trustee anticipates that these amendments will create substantial barriers to appropriate supports to provide a reasonable quality of life for represented persons, particularly where support needs arise from complex and interconnected disabilities and health conditions. The Public Guardian and Trustee is concerned that significant time and resources will be required to gather multidisciplinary evidence and repeated advocacy to challenge interpretations that may place vulnerable participants at risk of service disruption.

Participants involved in the Criminal Justice System

The Public Guardian and Trustee is particularly concerned about the impact on people with complex cognitive, psychosocial and forensic presentations. Many represented persons experience overlapping disabilities, behavioural issues, trauma, health conditions and environmental vulnerabilities that cannot easily be separated into discrete causes. In these cases, support needs are rarely attributable to a single impairment in isolation.

The Public Guardian and Trustee has significant concern that participants involved in criminal justice settings may be disproportionately affected by these changes. Many represented persons within the justice system require highly coordinated disability supports to maintain community stability, manage behaviours of concern, comply with treatment plans, engage with supervision requirements and reduce risks to themselves and others. In many cases, the absence of appropriate disability supports is itself a contributing factor to offending behaviour, repeated crisis presentations, repeated contact with emergency services or ongoing involvement with the justice system.

Efforts to reduce disability support expenditure may ultimately result in greater long-term costs being borne elsewhere across government systems. In practice, where participants are unable to access timely and appropriate disability supports, unmet needs often escalate into crisis responses involving hospital admissions, mental health interventions, homelessness services, child protection involvement or contact with the criminal justice system. This creates a significant risk of cost shifting from the Commonwealth-funded NDIS to State and Territory-funded health, housing and justice systems. While reducing short-term expenditure on disability supports may appear cost effective, it risks generating significantly higher long-term costs through increased reliance on crisis-based responses across health, housing and justice systems for highly vulnerable participants.

The Public Guardian and Trustee has observed represented persons cycling repeatedly between correctional settings, homelessness, hospital presentations and crisis accommodation due to the absence of stable disability supports, behavioural supports and coordinated accommodation pathways. In these circumstances, disability-related functional impairment cannot be meaningfully separated from behavioural, psychosocial or forensic presentations.

Restricting access to supports on the basis that a participant's needs are considered primarily health, behavioural or forensic in nature risks overlooking the underlying role that disability-related functional impairment plays in those presentations.

Schedule 2 – Fraud and integrity measures

This schedule aims to strengthen regulatory oversight and introduce stronger fraud prevention and enforcement mechanisms. The proposed amendments include:

- Clarifying registration of NDIS providers.
- Introducing civil penalties, regulatory powers and information gathering powers.
- Allowing the NDIA to investigate criminal activity and use participant information in those investigations.
- Requiring providers, nominees, and participants to retain records relating to supports and claims.
- Imposing a 90-day time limit for claiming NDIS payments after supports are delivered.
- Reforms prohibiting plan managers from delivering other NDIS supports to reduce conflicts of interest.

In the Northern Territory context, these risks are often compounded and amplified by geographic isolation, limited-service availability and reduced oversight in remote communities. The Public Guardian and Trustee is greatly disturbed by the emerging practice involving newly established service providers travelling to remote communities and offering inducements such as cigarettes,

fast food, cash-equivalent items and gift vouchers to encourage participants to sign service agreements or transfer service providers. The Public Guardian and Trustee has observed circumstances where represented persons were encouraged to transfer providers without fully understanding service agreements, funding arrangements or the consequences of those decisions. These risks are heightened in remote communities where access to independent advocacy and culturally appropriate advice may be limited.

In remote Aboriginal communities, additional considerations may heighten the risks associated with these exploitative practices including language differences, cultural considerations and limited access to independent advocacy support.

From an operational perspective, the Public Guardian and Trustee recognises the importance of safeguarding the long-term sustainability and integrity of the NDIS, particularly given the vulnerability of many participants to financial exploitation, coercion and service manipulation.

Stronger oversight of NDIS providers and clearer compliance obligations may assist in addressing situations where represented persons are exposed to inappropriate service practices, over-servicing, fraudulent claiming or conflicts of interest involving support arrangements. The proposed separation of plan management from direct service delivery may also help reduce circumstances where financial decisions are influenced by provider self-interest rather than participant need.

The Public Guardian and Trustee notes that an increased compliance-focused approach may unintentionally shift the operational burden of fraud prevention onto substitute decision-makers. For example, The Public Guardian and Trustee may need to devote additional resources to monitoring service records, responding to investigations, coordinating information requests and resolving disputes regarding service delivery and funding usage.

Schedules 3 to 5 – Governance administrative and transitional measures

This schedule focuses on pricing, governance and administrative processes. The proposed amendments include:

- Clearer legislative mechanism for setting and enforcing NDIS pricing arrangements.
- Allowing automated decision-making processes.
- Creation of transitional mechanisms to assist with amendment implementation.

Automation of administrative action

The Public Guardian and Trustee acknowledges the increasing prevalence of artificial intelligence supported computer systems aimed at improving workplace efficiency and reducing administrative pressures. While the Public Guardian and Trustee acknowledges the efficiencies associated with computer-based administrative processes, robust human oversight and safeguarding mechanisms remain essential to ensure automated decision-making does not result in unlawful, unfair or harmful outcomes similar to those experienced under the Robodebt scheme.

AI automated systems may not always capture a participant's individual circumstances, cultural considerations or the practical challenges experienced by people living in remote Northern Territory communities. Robust and meaningful delegate decision-making will remain essential to ensuring that administrative efficiency is not prioritised at the expense of fairness, procedural integrity and participant safety.

Conclusion

The Public Guardian and Trustee supports efforts to strengthen the long-term sustainability, integrity and effectiveness of the NDIS. However, sustainability measures should not, intentionally or unintentionally, reduce access to essential disability supports for people with permanent and complex disabilities, particularly those experiencing impaired decision-making capacity, social disadvantage, geographic isolation or limited informal supports.

Operational experience does not support the proposition that significant numbers of participants are accessing the NDIS without a genuine and ongoing need for disability supports. Rather, represented persons commonly experience unmet need, under-utilisation of supports, workforce shortages, thin markets and significant barriers to accessing the supports already available to them.

The Public Guardian and Trustee considers that efforts to improve NDIS sustainability should first and foremost focus on addressing fraud, misuse, waste and poor provider practices and ensuring that NDIS funding is directed towards genuine participant needs and outcomes. While maintaining the long-term viability of the NDIS is important, sustainability should not be achieved through measures that disproportionately impact people with disability or further restrict access to necessary supports.

There is also significant concern that the proposed legislative reforms have been progressed within a limited consultation timeframe that has constrained meaningful engagement with participants, families, carers, advocates, disability organisations and other stakeholders directly affected by the changes. Reforms of this scale and significance warrant comprehensive consultation to ensure potential unintended consequences are fully understood, particularly for vulnerable participants and those living in regional, remote and very remote communities.

Several proposed amendments risk increasing barriers to accessing and maintaining supports, shifting responsibility onto participants, families and substitute decision-makers, and increasing reliance on mainstream and foundational support systems that may be unavailable, inaccessible or unable to meet participant needs in practice.

The Australian Government is encouraged to ensure that implementation of any reforms is accompanied by strong safeguarding mechanisms, clear review pathways, appropriate transitional protections and sufficient flexibility to respond to the individual circumstances of participants with complex and fluctuating support needs.

Ultimately, the success of the NDIS should be measured not only by its financial sustainability, but by its capacity to uphold the rights, dignity, safety and inclusion of people with disability, enabling them to live their best lives and realise their full potential and ensuring access to the supports necessary for full participation in our communities.