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**Catholic Health Australia Submission – National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026**

Thank you for the opportunity to provide Catholic Health Australia (CHA)'s views on the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026. CHA recognises the work of the Government and the Department of Health, Disability and Ageing in advancing a reform agenda intended to secure the long-term sustainability of the Scheme, as informed by the 2023 Independent Review of the Scheme, the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, and the Provider and Worker Registration Taskforce.

CHA supports the broad direction of these reforms, including the return of the Scheme to its original purpose and placing the NDIS on a more sustainable footing so that it remains available for the generations who will rely on it. Many of the measures in the Bill give effect to the recommendations of the 2023 Review, and we are supportive of these.

Our submission focuses on several specific provisions where, in our view, the drafting goes further than the Review proposed, or omits safeguards that decisions of this consequence require. In each case, we propose targeted amendments designed to preserve the intent of the reform while restoring those safeguards.

CHA welcomes the opportunity to contribute to ongoing discussions and assist in the implementation of reforms that will build a more resilient, sustainable, and equitable care system for all Australians. If you wish to discuss anything further, please contact Brigid Meney via mobile on 0432 885 823 or email at [brigidm@cha.org.au](mailto:brigidm@cha.org.au).



**Dr Katharine Bassett**  
**Interim Chief Executive Officer**  
**Catholic Health Australia**



**Brigid Meney**  
**Director of Mission**  
**Catholic Health Australia**



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# **Catholic Health Australia – National Disability Insurance Scheme Amendment Bill 2026 Submission**

May 2026  
Catholic Health Australia  
[www.cha.org.au](http://www.cha.org.au)

Catholic Health Australia (CHA) is Australia's largest non-government, not-for-profit group of health, community, and aged care providers. Our members operate 80 hospitals in each Australian state and the ACT, providing around 30 per cent of private hospital care and 5 per cent of public hospital care, in addition to extensive community and residential aged care.

## Background

The National Disability Insurance Scheme (NDIS, or 'Scheme') has undergone significant change in recent years. In 2023, the Australian Government commissioned an Independent Review of the Scheme (the 'Review'), which examined its sustainability, effectiveness, and the experiences and outcomes of participants. The Review subsequently set out a blueprint for reform across twenty-six recommendations.<sup>1</sup>

This was followed by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability, by a Provider and Worker Registration Taskforce, and through a series of legislative and budgetary measures intended to give effect to their findings. The National Cabinet agreement of 30 January 2026 built the federal-state architecture for the next stage of reform, including a commitment to moderate the Scheme's annual cost growth to between five and six per cent, and a combined investment in Foundational Supports outside the Scheme, with Thriving Kids as the first earmarked program.<sup>2</sup>

The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 ('the Bill') is the legislative centrepiece of that next stage. Introduced to Parliament on 14 May 2026 and referred to the Senate Community Affairs Legislation Committee for inquiry ('the Committee'), the Bill makes changes across five Schedules covering access and planning, fraud and integrity, governance and pricing, the rollout of new framework planning, and transitional rules. The reforms are supported by two documents, the NDIS Reforms Impact Analysis and a Mandatory Registration Impact Analysis Equivalent, and by the 2026-27 Budget, which projects savings of \$37.8 billion over four years and a reduction in participant numbers from around 774,000 to approximately 600,000 by 2030.<sup>3</sup>

CHA and its members understand the Bill to make four substantial changes to the Scheme.

- **Access:** the Bill reshapes access to the Scheme through a new definition of functional capacity, a tightened test of permanence, and new requirements to consider whether a person's needs could more appropriately be met through other service systems.
- **Reasonable and necessary supports:** the Bill redefines what counts as a reasonable and necessary support, strengthens the link between funded supports and eligible impairments, and grants the Minister for Health, Disability, and Ageing new powers over funding and pricing arrangements for categories of supports.
- **Participant plans and decision-making:** the Bill changes how participant plans are reassessed, renewed and transitioned into the new framework planning model, while also reshaping how decisions are made and reviewed, including through the use of automated decision-making.
- **Regulation and integrity measures:** the Bill expands the Scheme's regulatory and integrity framework through stronger compliance, investigative and information-gathering powers, alongside mandatory registration requirements for higher-risk providers.

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<sup>1</sup> Independent Review into the National Disability Insurance Scheme, *Working Together to Deliver the NDIS: Final Report*, December 2023.

<sup>2</sup> National Cabinet, *Heads of Agreement on the National Health Reform Agreement, National Disability Insurance Scheme Reforms and Foundational Supports*, 30 January 2026.

<sup>3</sup> 2026-27 Budget, Budget Paper No. 2, p.108; NDIA, *Summary of Statistics, March 2026*.

## Overall comments

Australia's disability sector is undergoing significant structural change. An ageing population is placing growing pressure on care systems, while decades of deinstitutionalisation have rightly shifted care expectations toward more community-based, and person-centred support. Rates of disability diagnosis are increasing, best practice continues to evolve, and the boundaries between disability, aged care, and mental health support are becoming increasingly complex to navigate.

These pressures reflect a broader shift in how disability policy is framed, from service provision to increasing participation. The NDIS was born out of a recognition that people with disability deserve not just care, but genuine participation in community life. CHA members, whose work is grounded in Catholic teachings of dignity, equity, stewardship, and the value of the human person, are long-time advocates of this vision, and support the general direction of reform for the NDIS.

This includes returning the Scheme to its original purpose, notably by putting it on a more sustainable footing so that it remains there for the generations who will rely on it, alongside protecting it from the fraud and exploitation which erode both its resources and its social licence in the community. CHA members are mission-driven providers who remain registered under the Scheme – at a time when many providers are not – and who continue to serve the vulnerable and marginalised, including in thin and remote markets where they often cross-subsidise services and absorb financial risk to ensure equitable access to care. In this context, we support responsible stewardship of the Scheme to ensure that it upholds the dignity and common good that underpin our members' work. As a result, we have engaged with this reform agenda constructively throughout, including through our March 2026 submission on the NDIS provider definition and our submission on the New Framework Planning consultation.

However, whilst many of the Bill's measures give effect to the recommendations of the 2023 Review, CHA is concerned that specific provisions go beyond the Review or implement its recommendations in ways that remove protections that participants and providers currently rely on. Specifically, the Bill changes who the Scheme is for, what it will fund, and how a participant can challenge decisions that directly affect them in ways that grant considerable discretion to the executive (the Minister), whilst simultaneously removing opportunities for review for both participants and providers.

CHA does not underestimate the difficulty of reforming a scheme of this size, which requires Government leadership to achieve meaningful change whilst maintaining the trust of those who depend on the Scheme. Nor is our concern with the direction of reform, which we support. Rather, as this submission outlines, we are concerned with specific provisions that, as drafted, *risk undermining the principles of autonomy, fairness, and inclusion that these reforms are intended to restore*. Nonetheless, sustainability and purpose are not opposing aims, and the savings sought can be achieved whilst keeping faith with both.

Underpinning our concerns is the evidence base on which the Bill has been formulated. The Impact Analysis (IA) rated the Bill as 'adequate', on the basis that it would have benefited from further quantification of the costs and benefits, as well as a more detailed implementation and evaluation plan.<sup>4</sup> The IA acknowledges that – as the measures were modelled as a package – the savings, equity impacts, and risks cannot be attributed to individual provisions. It also notes that the resetting of budgets for capacity building daily

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<sup>4</sup> Office of Impact Analysis, assessment of the NDIS Reforms Impact Analysis, 2026.

activity and social and community participation, alongside the tightening of the reasonable and necessary test, were not specifically consulted on at the time of writing.

We consider these to be significant gaps in the evidence base. In particular, as the measures were modelled together, the projected savings, equity impacts, and risks cannot be traced to any single provision, making it difficult to scrutinise the measures on their own terms. It also leaves the disability community without clarity on how the different parts of this reform package will affect them in practice. Finally, the fact that the most consequential measures have not been subject to specific sector consultation may further erode the very social licence of the Scheme that the Government rightfully wants to restore.

Compounding these concerns are the unanswered questions regarding the expected saving. The headline figure of \$37.8 billion over four years is a reduction against a projected trajectory – rather than current spending – and the Scheme is still expected to cost over \$56 billion in both 2026-27 and 2029-30.<sup>5</sup> Moreover, the savings are heavily concentrated in the final two years of the forward estimates, which are furthest from observation and most prone to error.

Alongside this, the Minister has acknowledged that fraud is not a large component of the Scheme's growth,<sup>6</sup> and the Agency's own figures suggest that recoverable leakage accounts for well under half of the projected saving,<sup>7</sup> leaving a substantial share of the \$37.8 billion to be found elsewhere. As others have noted,<sup>8</sup> near-term moderation of expenditure can therefore only come from shorter-term measures, for example by slowing down plan reassessments, or by reducing social and community participation budgets, whilst the larger structural savings will arrive later. To add to the uncertainty, these are the measures that the IA did not cost individually, and the savings attributed to them rest on behavioural assumptions that the analysis does not model, such as how far participants will absorb a reduced budget or move their spending across the flexible parts of their plan.

CHA does not dispute the savings target or the need to place the Scheme on a sustainable footing. Nonetheless, we find this uncertainty concerning, especially as the Bill enables the Minister to use broad discretionary powers in addressing potential discrepancies. The Minister may, for example, reduce the funding for whole groups of supports below the cost that has already been found to be reasonable and necessary. Moreover, the Minister can set maximum prices below the cost of safe delivery, and determine budgets that may fund a support below what it costs to provide this service.

Where a savings task of this scale rests on a small number of broad discretionary powers – exercised under fiscal pressure rather than against the cost of safely delivering a support – the safeguards that ordinarily attend decisions of this consequence become more important. Nonetheless, these safeguards are currently absent from the legislation. Notably, there is:

- no floor below which the funding cannot fall;
- no requirement that the participant affected be heard or consulted;
- no avenue of merits review of the participants and providers directly affected; and,
- no explicit power for Parliament to disallow the documents which set prices.

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<sup>5</sup> 2026-27 Budget, Budget Paper No. 2, p.108 (\$37.8 billion in savings over four years); Budget Paper No. 1, Statement 6, Table 6.9.2, p.233 (NDIS expense estimates across the forward estimates).

<sup>6</sup> Karen Barlow, interview with the Hon Mark Butler MP, *The Saturday Paper*, 16 May 2026.

<sup>7</sup> Senate Community Affairs Legislation Committee, *Estimates Hansard*, 3 June 2024.

<sup>8</sup> Grattan Institute, *Budget 2026: The Grattan Verdict*, Podcast, 14 May 2026, comments by Sam Bennett, Director of the Disability Program; Michael Brennan, *Hiding in plain sight: the big item that underpins the Budget*, e61 Institute, 15 May 2026.

CHA acknowledges the intent of these powers, which aim to provide Government with the tools it needs to manage the Scheme's costs in a sustainable manner. As drafted, however, they place a significant degree of discretion in the hands of the executive without the safeguards that would ordinarily accompany decisions of this consequence for participants and providers. Our recommendations, set out below, therefore attempt to address these issues through legislative amendments that we believe are necessary for the long-term sustainability and success of the NDIS.

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## Our list of recommendations

**A note on references:** Throughout these recommendations, we refer to the proposed new provisions rather than the items of the amendment Bill that would insert them.

Subheading	Recommendation
<b>Functional capacity assessed without context (s.9B)</b>	<ol style="list-style-type: none"><li>1. Amend s.9B(1)(b) so that environmental and personal circumstances are taken into account rather than excluded, and ensure the NDIS Rules do not exclude geographic remoteness, informal supports, cultural safety, or financial constraints on access to treatment.</li><li>2. Validate the functional capacity assessment tool for First Nations participants before it is applied, and include First Nations expertise and people with lived experience in its development.</li><li>3. Amend s.9B(2) to provide that any rules widening the circumstances excluded under s.9B(1) are subject to consultation and Parliamentary disallowance.</li></ol>
<b>Permanence test and treatment a person cannot reach (s.25A, ss.24(5), 25(1B))</b>	<ol style="list-style-type: none"><li>4. Amend ss.24(5)(a) and 25(1B)(a) so that a person is required only to have undertaken treatment that is reasonably accessible in their individual circumstances, having regard to cost, location, and cultural appropriateness.</li><li>5. Amend s.25A(2) so that treatment is not considered appropriate where it is not reasonably accessible to the person.</li></ol>
<b>Removing participants from the Scheme before the alternative exists (s.25B)</b>	<ol style="list-style-type: none"><li>6. Amend s.25B so that an exclusion takes effect only once the alternative support is funded, operational, and accessible in the person's jurisdiction, with transitional NDIS support continuing for anyone for whom it is not yet available.</li></ol>
<b>Narrowing of participant-initiated reassessments (s.48A)</b>	<ol style="list-style-type: none"><li>7. Broaden the reassessment threshold in s.48A to provide that participants with episodic, fluctuating, or progressively deteriorating conditions are not required to demonstrate that a change is "significant and ongoing" and restore the 21-day decision timeframe in s.48(3) for reassessment requests made on those grounds.</li></ol>
<b>Renewal of plans and the removal of one-off funding (s.50A)</b>	<ol style="list-style-type: none"><li>8. Provide that the removal of one-off or temporary funding at plan renewal under s.50A is subject to ART merits review, with written reasons and adequate notice to the participant.</li></ol>

Subheading	Recommendation
<b>Budget methods that may fall below the cost of a support (s.32K)</b>	<p>9. The Committee recommend that the Government commission an independently verified assessment of the cost of providing each class of NDIS support to the standard required by the NDIS Quality and Safeguards Commission, disaggregated by geography and provider type, before any budget method under s.32K is finalised.</p> <p>10. Amend s.32K(3C) so that a funding amount may not be set below the independently verified cost of providing the support to the standard required by the NDIS Quality and Safeguards Commission.</p>
<b>Suspension of a plan for non-contactability (s.40A)</b>	<p>11. With reference to s.40A define "reasonable attempts" in the legislation or Rules, require contact through the participant's nominee or support coordinator first, and provide that non-contactability arising from disability or other extenuating medical circumstances, including hospitalisation or mental health crisis, does not justify suspension.</p> <p>12. To support effective implementation of s 40A, provide that the CEO must not rely on contact attempts made before the commencement of this legislation, and require any changes to the non-contactability framework to be publicly communicated so that participants are made aware and not unfairly disadvantaged.</p>
<b>Powers to reduce funding below the cost of a support (s.34A)</b>	<p>13. Insert a floor in s.34A providing that a determination may not reduce a funding component amount below the reasonable cost of delivering the support to NDIS Quality and Safeguards Commission standards.</p>
<b>Pricing power and its oversight (s.45C)</b>	<p>14. Subject s.45C determinations, and any pricing document incorporated into them, to Parliamentary disallowance; also require pricing to have regard to the viability of not-for-profit provision in regional, rural, and remote markets; and establish an independent pricing authority for the Scheme to inform s. 45C determinations.</p>
<b>Absence of merits review (s.34A and s.45C)</b>	<p>15. Provide a participant-level avenue of merits review where a determination under s.34A or s.45C reduces the funding or price for a support in an individual participant's plan below its cost.</p>
<b>Transitional rule-making power (Schedule 5)</b>	<p>16. Provide that transitional rules made under Schedule 5 are subject to Parliamentary disallowance, and that any rule affecting provider obligations or participant entitlements is accompanied by at least 28 days' notice to those affected before it takes effect.</p>
<b>Automated decision making and</b>	<p>17. Require that any designation authorising evaluative automated decision-making be made by disallowable legislative instrument, and require mandatory human review before such decisions take effect for</p>

Subheading	Recommendation
<b>judgement (s.59B and s59.D)</b>	<p>participants with complex support needs, children, and culturally and linguistically diverse participants.</p> <p>18. Make the standard operating procedure instruments under s.59D(6) legislative instruments subject to Parliamentary disallowance, with a minimum public consultation period before any change takes effect.</p>
<b>Invalid automated decisions that remain legally valid (s.59E(3))</b>	<p>19. Remove s.59E(3); or alternatively, where a participant requests human review of an automated decision, require that the decision be paused until the review is complete.</p>
<b>NDIS Commission and the registration workload (s.10C)</b>	<p>20. Conduct an independent assessment of the NDIS Commission's capacity, and confirm full funding for the additional workload, before commencing the expansion of mandatory registration. Provide for a statutory review of the registration model within three years of commencement.</p>
<b>Application of record-keeping obligations (s.45B)</b>	<p>21. Adopt a tiered record-keeping framework that recognises the existing obligations of registered providers, scales new requirements to provider risk profile, and provides a transition period with NDIA support before the obligations take effect.</p>

## Submission

### Section 1: Eligibility and access

#### Functional capacity assessed without context (s.9B)

Functional capacity is the foundation on which access, planning, and budgets all rest, and the Bill defines it as “the person’s ability to undertake the activity: a) without assistance from other people, assistive technology or modifications; and b) in a context that excludes, as far as possible, the impact of the person’s environmental and personal circumstances”.<sup>9</sup>

The intention here is to produce a consistent measure – one that does not vary according to where a person lives, or what level of informal help and support happens to be available to them. CHA broadly agrees with this intention, insofar as it attempts to introduce greater standardisation and fairness to the Scheme. However, there are several unintended consequences of this definition that may lead to consistency in form, but not in function:

- *It can describe a capacity the participant does not have in practice.* The definition excludes a person's environmental and personal circumstances, yet those very circumstances often determine whether they can undertake an activity at all. Distance from services, lack of transport, or absence of informal support all bear on what a person can do, and setting them aside overstates the capacity of participants in remote and under-serviced areas.
- *It may understate the needs of the participants who are hardest to reach.* Our members who deliver supports see how much of a person's functional capacity depends on the factors the definition disregards. A participant can present as more independent than their circumstances allow, and at the point of access this determines not just the size of a plan but whether they are found eligible at all.
- *It will be operationalised through a tool not yet clearly shown to be safe for some of those most affected.* The I-CAN v6 instrument currently has no published cultural validation for First Nations populations, who make up a disproportionate share of participants in remote and very remote areas.<sup>10</sup>

Taken together, whilst the legislation should support the goal of a consistent measure, it must also ensure that the definition remains connected to the circumstances that give it meaning. Most importantly, an assessment can be standardised and still account for remoteness, informal supports, cultural safety, and a person's capacity to access treatment.

Alongside this, Section 9B(2) allows the NDIS Rules to determine matters for the purposes of the definition, which means that the circumstances excluded from an assessment of functional capacity could be widened further by instrument, without consultation or Parliamentary oversight.

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<sup>9</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.9B(1)(b), p.4.

<sup>10</sup> First Peoples Disability Network Australia, “Managed neglect,” *First Nations disability peak body responds to the 2026-27 Federal Budget*, Media Release, 13 May 2026.

A definition with consequences as significant for access as this should not be capable of being narrowed administratively in this way. It is also worth noting that the Review, in calling for assessment grounded in functional capacity, envisaged a broader and more contextual conception than the one s.9B adopts, which is a further reason to ensure the definition cannot be further tightened without scrutiny.

**Recommendation 1:** Amend s.9B(1)(b) so that environmental and personal circumstances are taken into account rather than excluded, and ensure the NDIS Rules do not exclude geographic remoteness, informal supports, cultural safety, or financial constraints on access to treatment.

**Recommendation 2:** Validate the functional capacity assessment tool for First Nations participants before it is applied, and include First Nations expertise and people with lived experience in its development.

**Recommendation 3:** Amend s.9B(2) to provide that any rules widening the circumstances excluded under s.9B(1) are subject to consultation and Parliamentary disallowance.

### **Permanence test and treatment a person cannot reach (s.25A, ss.24(5), 25(1B))**

Access to the Scheme now requires that a person has undertaken all appropriate treatment, and the Bill provides that treatment remains appropriate whether the person can or cannot access it. Specifically, Section 25A (2) states that “[t]reatment may be appropriate treatment for a person's impairment or impairments regardless of whether the person's individual circumstances restrict the person from accessing the treatment”.<sup>11</sup>

Moreover, the Explanatory Memorandum reinforces this, noting that “[a] person's personal and environmental circumstances, including financial and geographical circumstances, are not relevant in considering whether a person has undertaken all appropriate treatment. This is because ensuring people with disability have access to mainstream services, regardless of their circumstances, is the responsibility of all mainstream support systems.”

CHA acknowledges and supports the intent here, namely that the Government is seeking to ensure that people access appropriate mainstream treatment rather than defaulting to the NDIS. Moreover, it makes clear that the responsibility for the availability of those mainstream services lies with the broader system rather than the NDIS alone.

However, as currently drafted the practical effect of this provision is problematic, as it means that a person who cannot afford a course of treatment, or who cannot travel to where treatment is being delivered, may be found to not have a permanent disability. This may result in them being denied access to the Scheme on the basis of an inability to access treatment that they were not in a position to undertake.

The reasoning is also circular insofar as the provision assumes that mainstream systems will deliver the treatment, yet where those systems fall short – for example through waitlists, distance, or cost – the consequence will be borne by the individual, which is a clear inequity in design.

These concerns are compounded by the new definition of functional capacity discussed above, as the two provisions work together to reinforce one another. A participant must first

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<sup>11</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.25A(2), pp.35-36.

be assessed as more capable than they may actually be, because section 9B excludes the very circumstances that shape their capacity. They may then be denied access to the Scheme on the basis of treatment that those same circumstances place out of reach.

This is a new eligibility hurdle with no equivalent in the current Act, and it falls most heavily on the participants least able to absorb it – notably, those in regional and remote areas, and those for whom the cost of treatment is itself out of reach. This undermines the original premise of the Scheme, namely that disability support should not depend on a person's means. To address this, we recommend amendments to both the permanence test and the definition of appropriate treatment to require only that a person has undertaken treatment that is reasonably accessible in their individual circumstances.

**Recommendation 4:** Amend ss.24(5)(a) and 25(1B)(a) so that a person is required only to have undertaken treatment that is reasonably accessible in their individual circumstances, having regard to cost, location, and cultural appropriateness.

**Recommendation 5:** Amend s.25A(2) so that treatment is not considered appropriate where it is not reasonably accessible to the person.

### **Removing participants from the Scheme before the alternative exists (s.25B)**

The Bill allows the Minister to declare a class of impairment ineligible for the Scheme by deeming that an alternative support exists, with no requirement that the alternative be funded, operational, or accessible where the person lives.<sup>12</sup> While the immediate logic of this mechanism is to divert children to Thriving Kids, the power is not confined to this cohort but rather extends to any impairment that the Minister chooses to name.

CHA is not opposed to the principle of diverting participants to more appropriate services, and we supported the 'no worse off' commitment in the development of the 2024 Aged Care Act precisely because it protected people during a major transition. Nonetheless, the Bill as currently drafted offers few of the protections that were found in the Aged Care Act. It does not require that the alternative support meet the same standard as the NDIS support it replaces, that it be delivered by a qualified provider, that it be available in the person's community, or that it be sufficient to meet the person's assessed needs.

Foundational Supports are not yet operational in most communities, and there are serious concerns that they will not be ready in time for the transition, or that they will reach the people most in need of them when they do. Moreover, the funding set aside for these supports – a substantial portion of which currently remains unallocated in the Contingency Reserve<sup>13</sup> – has not reached many of the people it is meant to serve, and there are concerns that children are already being removed without alternatives being in place.

Additionally, the savings from removing a cohort from the Scheme accrue immediately to the Commonwealth whereas the cost and pathways of building the alternatives falls across multiple budgets, jurisdictions, and years. Even without any deliberate intent, that asymmetry

<sup>12</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.25B.

<sup>13</sup> 2026-27 Budget, Budget Paper No. 2, p.107-112. The Government has provisioned \$3 billion over five years for Foundational Supports outside the NDIS, with portions including \$139.7 million for Thriving Kids services in early childhood settings held in the Contingency Reserve "pending consultation and design with states and territories".

pushes toward removing people before replacement supports are in place. Without a 'no worse off' guarantee on the face of the legislation, families are left without any legislative guarantee and clarity on how support may be provided and when.

We therefore recommend that s.25B be amended to ensure that no exclusion takes effect before the alternative support is ready and available to the person it affects.

**Recommendation 6:** Amend s.25B so that an exclusion takes effect only once the alternative support is funded, operational, and accessible in the person's jurisdiction, with transitional NDIS support continuing for anyone for whom it is not yet available.

## Section 2: Planning and reassessment

### Narrowing of participant-initiated reassessments (s.48A)

Unscheduled reassessments have been a significant source of cost and administrative burden in the Scheme, and CHA supports the principle behind tightening the grounds on which a participant can request one. Specifically, requiring a genuine and substantial change before a plan is reopened is – in our view – a reasonable measure. Nonetheless, we are concerned that, as currently drafted, the Bill does not accommodate the needs of certain cohorts that may be unfairly impacted as a result of this legislation.

Under the new section 48A, a requested reassessment relating to functional capacity will proceed only where the alteration is "significant and ongoing" and the participant has also "experienced a substantial reduction in the participant's ability to perform daily activities".<sup>14</sup> Likewise, a reassessment relating to a change in circumstances requires an "unanticipated, significant and ongoing alteration" in the participant's living, education, work, or informal support arrangements.<sup>15</sup>

However, for those with a relapsing psychosocial condition, or with a condition that may deteriorate unevenly, support needs can change substantially without necessarily presenting as a single, sustained alteration that affects daily functioning. This runs against the NDIS Act's own treatment of permanence, since the 2022 amendments accepted that an impairment can be permanent even where its severity fluctuates. Any reassessment threshold built around sustained decline therefore risks leaving these participants unable to have their plans adjusted when their needs genuinely change.

The extension of the decision timeframe from 21 to 90 days compounds this. For example, a participant with an episodic condition whose needs have escalated cannot afford to wait 90 days for the Agency to decide whether a reassessment will occur, and for this and other cohorts, that period of waiting constitutes an unmet need.

<sup>14</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.48A(2)(a) and (c), p.9.

<sup>15</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.48A(3), pp.9-10.

To preserve the tightening while protecting this cohort, we recommend a carve-out for episodic and fluctuating conditions.

**Recommendation 7:** Broaden the reassessment threshold in s.48A to provide that participants with episodic, fluctuating, or progressively deteriorating conditions are not required to demonstrate that a change is "significant and ongoing", and restore the 21-day decision timeframe in s.48(3) for reassessment requests made on those grounds.

### **Renewal of plans and the removal of one-off funding (s.50A)**

CHA views the automatic renewal of plans introduced by section 50A as a reasonable administrative reform if implemented properly. Renewing a plan on its end date with existing supports, rather than requiring a full reassessment each cycle, reduces the burden on both participants and the NDIA.

Nevertheless, there are several difficulties in how the renewal treats one-off funding. Under the new arrangements, the renewed plan "does not include any one-off funding for support that was included under the old plan", and the Bill provides that the renewal "does not involve the making of any reviewable decision".<sup>16</sup> The result of this is that one-off funding is stripped on renewal with no avenue for a merits review.

This may be appropriate in ordinary circumstances, but a one-off grant is sometimes the sole means by which an ongoing need is met. Where that need persists beyond the life of the plan, the participant is left with no way to challenge the removal of the funding that supported it. This gap can be addressed without affecting the renewal mechanism itself, given that section 103A already preserves a right of review over the underlying plan.

To this end, we recommend that the removal of one-off funding on renewal be made reviewable in cases where the underlying need continues.

**Recommendation 8:** Provide that the removal of one-off or temporary funding at plan renewal under s.50A is subject to ART merits review, with written reasons and adequate notice to the participant.

### **Budget methods that may fall below the cost of a support (s.32K)**

CHA has several concerns about this particular provision. Under the new framework planning provisions, the funding amount for a support is worked out by a method set in the NDIS Rules, and the Bill states expressly that an amount worked out under that method "may be more than, equal to or less than the actual cost of providing or acquiring the support or group or class of supports".<sup>17</sup> Unlike the reassessment and renewal provisions, this is not a measure directed at eligibility or administrative process but rather one that permits the amount in a participant's plan to fall below what the support costs to deliver.

The potential risks of this provision are heightened by the powers afforded to the Minister under section 34A to reduce funding for a group of supports, as well as section 45C, around price setting. These are discussed in detail below, but should nonetheless be considered alongside section 32K, as each mechanism is cumulatively capable of producing a funding amount or price below the cost of delivery.

<sup>16</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.50A(2)(b), p.17.

<sup>17</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.32K(3C), Schedule 4, p.104.

Where a support is funded below the cost of delivery, providers face a binary decision: absorb the shortfall or decline to deliver. Commercial providers may make a rational market decision and exit, particularly in regional and remote areas, and individuals with complex needs.

Mission-driven providers, on the other hand – including CHA members – will likely attempt to cross-subsidise for as long as they are able. But cross-subsidy is not a funding model, rather it is a transfer of financial risk from the Scheme onto organisations whose mission does not permit them to turn participants away. That transfer and the pressure placed on the broader health and aged care sector as a result, is invisible in the budget papers and absent from the impact analysis to date.

At the very least, the Committee should seek further evidence on how potential below-cost funding under s.32K will be managed in thin and remote markets, and what provider-of-last-resort arrangements will apply when services become unviable.

A budget method intended to make planning more consistent should therefore carry an assurance that the amount it produces is sufficient to deliver the support it funds. To do so, we recommend setting a funding floor within Budget methods that links to the cost of delivering supports.

**Recommendation 9:** The Committee recommend that the Government commission an independently verified assessment of the cost of providing each class of NDIS support to the standard required by the NDIS Quality and Safeguards Commission, disaggregated by geography and provider type, before any budget method under s.32K is finalised.

**Recommendation 10:** Amend s.32K(3C) so that a funding amount may not be set below the independently verified cost of providing the support to the standard required by the NDIS Quality and Safeguards Commission.

### **Suspension of a plan for non-contactability (s.40A)**

Given the scale of the NDIS, CHA acknowledges that it is important to ensure that the NDIA CEO is afforded mechanisms to effectively administer participants that are not locatable, or cannot be contacted. The provision includes appropriate safeguards too, for example in cases where a participant has managed to make contact with the NDIA within 90 days, who must then have their suspension addressed. Moreover, the decision to suspend is itself reviewable, which provides a further avenue of recourse for participants affected.<sup>18</sup>

However, in many cases the reason that the participant is uncontactable may be because of their disability or broader circumstances. A participant may be, for example, in hospital, experiencing a mental health crisis, experiencing homelessness, or unable to engage because the support that would have kept them in contact with the Scheme is no longer in place during this particular transition of care. For these participants, a plan suspension does not resolve the non-contactability, rather it removes the support that might have made contact possible in the first place, including adding barriers to having that decision reviewed.

As currently drafted, the provision treats an absence of contact as a default issue that justifies suspension without considering the participant's context. It does not require the NDIA to first attempt contact through the participant's nominee or support coordinator, nor

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<sup>18</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.40A(3)-(4), p.31 (90-day pathway); s.40A(1) note and s.99(1) table item 5A, pp.31-32 (reviewable decision).

does it distinguish non-contactability that arises from disability and/or other reasons. The retrospective operation of the power compounds these concerns, given that the CEO may rely on contact attempts made before the provision commenced.

To address this, we recommend amendments to the provision's scope, definitions, and contact requirements, as set out below.

**Recommendation 11:** With reference to s.40A define "reasonable attempts" in the legislation or Rules; require contact through the participant's nominee or support coordinator first, and provide that non-contactability arising from disability or other extenuating medical circumstances, including hospitalisation or mental health crisis, does not justify suspension.

**Recommendation 12:** To support effective implementation of s 40A, provide that the CEO must not rely on contact attempts made before the commencement of this legislation, and require any changes to the non-contactability framework to be publicly communicated so that participants are made aware and not unfairly disadvantaged.

### Section 3: Ministerial powers and pricing

CHA acknowledges the legitimate need for the Minister and the CEO of the NDIA to operate with a degree of executive discretion to effectively manage the NDIS. Moreover, we accept that ministerial mechanisms for adjusting funding and pricing are a legitimate part of ensuring that the Scheme is run in a sustainable manner.

We adopted a similar view during the development of the 2024 Aged Care Act, whereby we supported the conferral of ministerial powers necessary to implement the recommendations of the Royal Commission into Aged Care Quality and Safety, recognising that the scale and complexity of that reform required the Government to retain the flexibility to adjust settings as the new system was put into operation.

Nonetheless, we remain concerned that this Bill confers powers on the Minister that go beyond what is required to steward the Scheme, and without the appropriate safeguards in place to limit unintended consequences on participants and providers.

#### **Powers to reduce funding below the cost of a support (s.34A)**

Under section 34A, the Minister may, by legislative instrument, reduce the funding component amount for a specified group of supports across all applicable plans. In section 34A(5), the provision makes explicit that the determination remains in effect even if the result is that the funding for a reasonable and necessary support "is less than the total cost of the support".<sup>19</sup>

While the Bill requires the Minister to "have regard to the safety of participants" when making a determination,<sup>20</sup> this is a consideration that informs the determination rather than a constraint that limits it, and an explicit mechanism through which the safety obligation is upheld rather than simply acknowledged would provide greater clarity for the sector as a practical safeguard.

<sup>19</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.34A(1), p.12.

<sup>20</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.34A(3), p.13.

This departs from a key principle that has been in place since the inception of the Scheme, namely that a support assessed as reasonable and necessary for a participant *is funded*. Whilst the Bill retains this language of reasonable and necessary, it simultaneously permits for the funding attached to such supports to fall short of what they cost to deliver.

To address this, we recommend that a floor is set beneath which a determination cannot reduce funding.

**Recommendation 13:** Insert a floor in s.34A providing that a determination may not reduce a funding component amount below the reasonable cost of delivering the support to NDIS Quality and Safeguards Commission standards.

### **Pricing power and its oversight (s.45C)**

Section 45C allows the Minister to determine the maximum amount payable for an NDIS support or class of supports, although they may only make such a determination after the NDIA has provided advice considering the cost of safe, efficient, high-quality provision, market diversity, and financial sustainability. Alongside this, the Minister must take this advice into account when making the determination.<sup>21</sup> Taken together, these requirements are sensible features that provide an effective check on Ministerial power, and CHA welcomes their inclusion.

Yet there are two other features of section 45C that we find concerning. First, the determinations are exempt from sunseting that would otherwise subject them to periodic Parliamentary review. Second, where a determination incorporates a pricing document prepared by the NDIA, the Bill specifies that this is not a legislative instrument. In practice, this means that Parliament has no power to disallow it, and the mechanisms through which prices are set are not subject to parliamentary scrutiny. Therefore, whilst the primary determination is a legislative instrument, the document that gives it operational effect is not. Moreover, providers and participants are governed by both, yet Parliament can scrutinise only one.

Under the Bill as currently drafted, the NDIA is both the body that pays for supports and the body whose advice must inform the Minister's pricing decision. The Review identified this conflict directly, and recommended at Action 11.3 that responsibility for advising on NDIS pricing be transferred to the Independent Health and Aged Care Pricing Authority.<sup>22</sup> That recommendation of an independent pricing authority has not been implemented in this Bill.

These concerns are particularly acute for providers operating in regional, rural, and remote markets, where the cost of delivering safe supports is higher, and where CHA members are often the only provider willing to operate. Again, whilst the NDIA's advice must consider remoteness, there is no suggestion that this will translate into pricing decisions that ensure sustainable provision in these markets. And without an independent check on the determination, the viability of provision in these thin markets ultimately rests on the Minister's executive discretion.

<sup>21</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.45C(1) and s.45C(14), pp.88-91.

<sup>22</sup> NDIS Review, *Working together to deliver the NDIS - Final Report* (December 2023), Action 11.3, p. 172.

To address this, we recommend that these determinations be subject to disallowance, that the viability of not-for-profit provision be expressly considered, and that the Government consider establishing an independent pricing authority for the Scheme.

**Recommendation 14:** Subject s.45C determinations, and any pricing document incorporated into them, to Parliamentary disallowance; also require pricing to have regard to the viability of not-for-profit provision in regional, rural, and remote markets; and establish an independent pricing authority for the Scheme to inform s. 45C determinations.

### **Absence of merits review (s.34A and s.45C)**

Both the funding-reduction power (under s.34A) and the pricing power (under s.45C) are exercised through ministerial instruments that apply across the Scheme, rather than through individual decisions about a particular participant or provider. Currently, the only avenue available to those affected by the Minister using these powers is a judicial review in the courts, which is costly, impractical, and unrealistic for most participants to pursue.

CHA recognises that – where a ministerial determination applies broadly across the NDIS – it would be problematic for that determination to be subject to a singular review for a particular participant. Nonetheless, we believe that participants should have some option for recourse in cases where such a determination reduces the funding or price for a support in their plan below its cost.

To address this, we recommend a participant-level avenue of review that is limited to the application of these determinations, whether that be through the ART under s.99 or through an appeals pathway established within the NDIS Quality and Safeguards Commission.

**Recommendation 15:** Provide a participant-level avenue of merits review where a determination under s.34A or s.45C reduces the funding or price for a support in an individual participant's plan below its cost.

### **Transitional rule-making power (Schedule 5)**

Schedule 5 allows the Minister, by legislative instrument, to make rules of a transitional nature relating to the amendments made by the Act, including rules that modify the effect of provisions of the NDIS Act itself.<sup>23</sup> Given the size of the reform, transitional flexibility is needed, and these powers are bound by sensible and meaningful limits.

However, CHA holds reservations regarding the visibility and oversight of how this power may be used while it remains in operation. A transitional rule that changes how the Act applies in practice, and in doing so alters provider obligations or participant entitlements, can carry real consequences for those affected.

To address this, we recommend that such rules be made subject to Parliamentary disallowance, with at least 28 days' notice to providers before they take effect.

**Recommendation 16:** Provide that transitional rules made under Schedule 5 are subject to Parliamentary disallowance, and that any rule affecting provider obligations or participant entitlements is accompanied by at least 28 days' notice to those affected before it takes effect.

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<sup>23</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, Schedule 5, item 1(1)-(3), p.108.

## Section 4: Automation and accountability

### Automated decision making and judgement (s.59B and s59.D)

If used properly, and with the right guardrails, automation has a legitimate role in administering the NDIS and supporting the delivery of the Scheme at scale. The Bill includes several such mechanisms, notably Section 59 which permits the CEO to arrange for computer programs to take administrative action under designated provisions of the Act,<sup>24</sup> and the CEO retains the power to substitute a different decision where the automated action is not correct or preferable. Moreover, any notice of an automated decision must also inform the participant that it was made by a computer program, a move that CHA welcomes.

However, Section 59B(4) goes further, expressly permitting automation of decisions involving the exercise of discretion or the making of evaluative judgements. Whilst Section 59D(6) provides that the standard operating procedures governing how a program exercises that discretion are published but cannot be disallowed by Parliament.<sup>25</sup>

In effect, this means that the rules determining how a program makes judgements about a participant's entitlements can be changed by the CEO at any time, without parliamentary scrutiny. The populations most at risk from automated error in these decisions – First Nations participants, people with complex or fluctuating conditions, people in regional and remote areas – are precisely those whose circumstances are least likely to conform to the standardised patterns and data on which automated systems are trained.

Recent policy work has drawn a useful distinction between rules-based automation, which can deliver genuine efficiency, and automation involving discretion, which carries greater risks and warrants stronger safeguards.<sup>26</sup> CHA is not suggesting that evaluative automation is never appropriate or that human review of every automated decision is feasible at the scale of the NDIS. Rather, we recommend that – where a decision involves judgement about a participant's circumstances – the judgement should sit with a person, or be reviewable by one before the decision takes effect.

Equally, the design of any automated processes affecting participants must actively guard against reinforcing the entrenched inequities and biases that automation can otherwise amplify. The following recommendations aim to embed these safeguards, including parliamentary oversight, mandatory human review for those most at risk of harm, and transparency in how automated processes are designed and changed over time.

**Recommendation 17:** Require that any designation authorising evaluative automated decision-making be made by disallowable legislative instrument, and require mandatory human review before such decisions take effect for participants with complex support needs, children, and culturally and linguistically diverse participants.

**Recommendation 18:** Make the standard operating procedure instruments under s.59D(6) legislative instruments subject to Parliamentary disallowance, with a minimum public consultation period before any change takes effect.

<sup>24</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.59B(1), p.93.

<sup>25</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.59B(4), p.94; s.59D(6), p.97.

<sup>26</sup> Kate Chaney MP, *Fairer and Faster Government Decisions: Safeguards for automated decision-making in government*, March 2026.

### **Invalid automated decisions that remain legally valid (s.59E(3))**

Section 59E(1) requires the CEO to take all reasonable steps to ensure that any automated outcome is one that they could validly make themselves. However, section 59E(3) then provides that a failure to comply with that requirement does not affect the validity of the automated decision.<sup>27</sup> This means that – in effect – an automated decision will be retained even when it has been made incorrectly or on the wrong basis, leaving the participant subject to an outcome that is invalid.

The inclusion of a safeguard that allows potentially incorrect or misleading decisions to remain in force, particularly where those decisions concern a person's support(s) under the Scheme, may result in unintended consequences for those involved. At a minimum, where a participant requests human review of an automated decision, that decision-making process should be paused until the review is complete. Furthermore, regardless of whether an invalid automated decision can remain legally valid, the participant must have access to all information relevant to how that decision was made – including the reasonable steps taken under s 59E(1) and (2), which should be clearly documented and made transparent alongside the decision outcome.

**Recommendation 19:** Remove s.59E(3); or alternatively, where a participant requests human review of an automated decision, require that the decision be paused until the review is complete.

## **Section 5: Provider obligations**

### **NDIS Commission and the registration workload (s.10C)**

CHA supports the principle of mandatory registration, and we have set out the case for a more consistent and accountable registration framework in our March 2026 submission on the NDIS provider definition.<sup>28</sup> A more pressing concern, however, is whether the Commission currently has the resources to administer an expanded registration system.

The Bill broadens the scope of mandatory registration, although the additional costs for this will be partially met by the Department "from within existing resources",<sup>29</sup> with no confirmed additional funding for the NDIS Commission itself. CHA is concerned about whether the NDIS Commission will have the capacity to effectively process new registrations, conduct worker screening, and maintain effective oversight of existing providers.

There remains a risk that if audits and compliance actions are deferred because resources are stretched, then the quality and safety benefits that mandatory registration is intended to deliver will not be realised. In that scenario, participants bear the cost of a system that has the appearance of oversight without its effect.

<sup>27</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.59E(1) and s.59E(3), p.98.

<sup>28</sup> Catholic Health Australia, *Getting It Right – A New Definition for NDIS Providers* (March 2026). Available at [https://cha.org.au/wp-content/uploads/2026/05/CHA\\_Submission-NDIS-Provider-Definition\\_Mar\\_2026.pdf](https://cha.org.au/wp-content/uploads/2026/05/CHA_Submission-NDIS-Provider-Definition_Mar_2026.pdf).

<sup>29</sup> 2026-27 Budget, Budget Paper No. 2, p. 108. "The Department of Health, Disability and Ageing, the NDIA and the NDIS Commission will partially meet the cost of this measure from within existing resources."

Given the potential risks to participants, providers, and the integrity of the registration system, the capacity of the Commission and the funding required to support the additional workload should be confirmed before the expansion proceeds.

**Recommendation 20:** Conduct an independent assessment of the NDIS Commission's capacity, and confirm full funding for the additional workload, before commencing the expansion of mandatory registration. Provide for a statutory review of the registration model within three years of commencement.

### **Application of record-keeping obligations (s.45B)**

The Bill introduces new record-keeping obligations that commence shortly after Royal Assent and apply uniformly to all providers, regardless of registration status, compliance history, or risk profile.<sup>30</sup> Whilst we recognise the intent behind a consistent approach for record-keeping, the uniform application of these requirements adds to a burden that already falls disproportionately on registered providers, while doing little to distinguish those that warrant closer attention from those that do not.

The rationale for stronger record-keeping requirements is sound. Well-publicised accounts of fraudulent and inappropriate claiming have been a genuine problem for the social licence of the Scheme, and CHA supports measures that improve the integrity of NDIS payments. Moreover, the 2023 NDIS Review and the Provider and Worker Registration Taskforce identified that the most significant integrity and oversight gaps sit in the parts of the sector that currently operate without registration, audit, or visibility to the regulator.<sup>31</sup>

Applying uniform record-keeping requirements to all providers spreads compliance burden where it is easiest to impose, on the providers already inside the regulatory framework, rather than directing it to where the visibility and oversight gaps are greatest.

Registered providers – such as CHA members – already operate under a substantial compliance framework. They are subject to the NDIS Practice Standards (including Core and applicable Supplementary Modules), the NDIS Code of Conduct, mandatory certification and verification audit cycles, NDIS Worker Screening Check requirements, reportable incident notification, complaints management obligations, and behaviour support plan lodgement requirements where restrictive practices are involved.<sup>32</sup>

The administrative infrastructure required to meet those obligations is significant, and CHA members have invested considerably in building it as part of our commitment to high quality support to those who need it most. New record-keeping requirements that do not recognise that existing infrastructure adds overheads to the providers who are already the most transparent, while the providers who present the greatest risk to participants and their safety carry a proportionally lighter load.

CHA therefore calls for a more risk-proportionate approach – which we articulated in our previous submission<sup>33</sup> – that would recognise the obligations registered providers already

<sup>30</sup> NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026, s.45B, pp.77-79.

<sup>31</sup> NDIS Review, *Working together to deliver the NDIS – Final Report* (December 2023), Recommendation 17, pp.215-216; NDIS Provider and Worker Registration Taskforce, *Final Advice* (August 2024).

<sup>32</sup> National Disability Insurance Scheme Act 2013 (Cth); NDIS (Provider Registration and Practice Standards) Rules 2018; NDIS (Incident Management and Reportable Incidents) Rules 2018; NDIS (Restrictive Practices and Behaviour Support) Rules 2018.

<sup>33</sup> Catholic Health Australia, *Getting It Right – A New Definition for NDIS Providers* (March 2026). Available at [https://cha.org.au/wp-content/uploads/2026/05/CHA\\_Submission-NDIS-Provider-Definition\\_Mar\\_2026.pdf](https://cha.org.au/wp-content/uploads/2026/05/CHA_Submission-NDIS-Provider-Definition_Mar_2026.pdf).

meet, scale new requirements according to a provider's risk profile, and allow time to adjust before the obligations take effect.

**Recommendation 21:** Adopt a tiered record-keeping framework that recognises the existing obligations of registered providers, scales new requirements to provider risk profile, and provides a transition period with NDIA support before the obligations take effect.