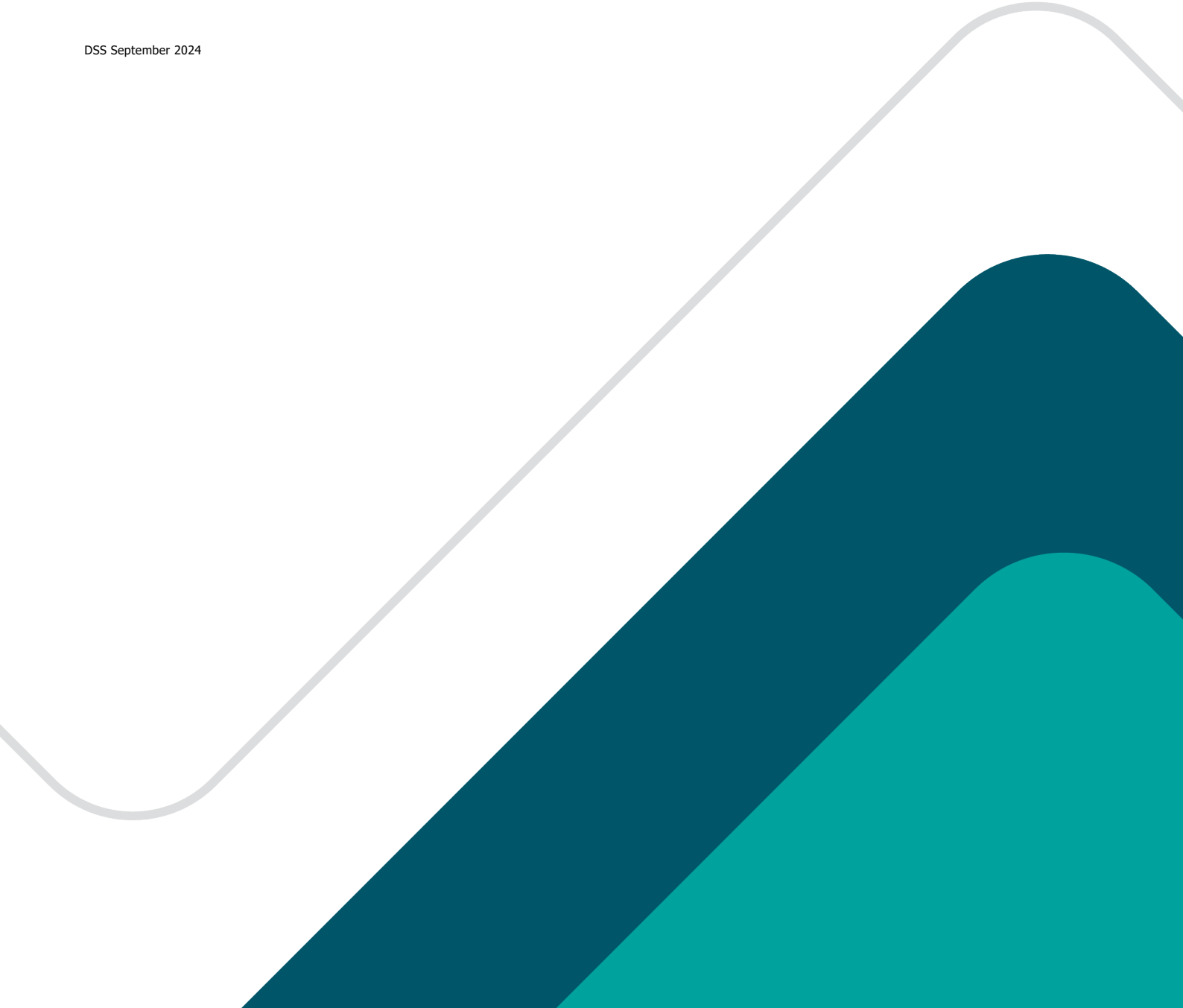




Attachment A - Summary of Public Consultation

Consultation on draft list of National Disability Insurance Scheme supports

DSS September 2024



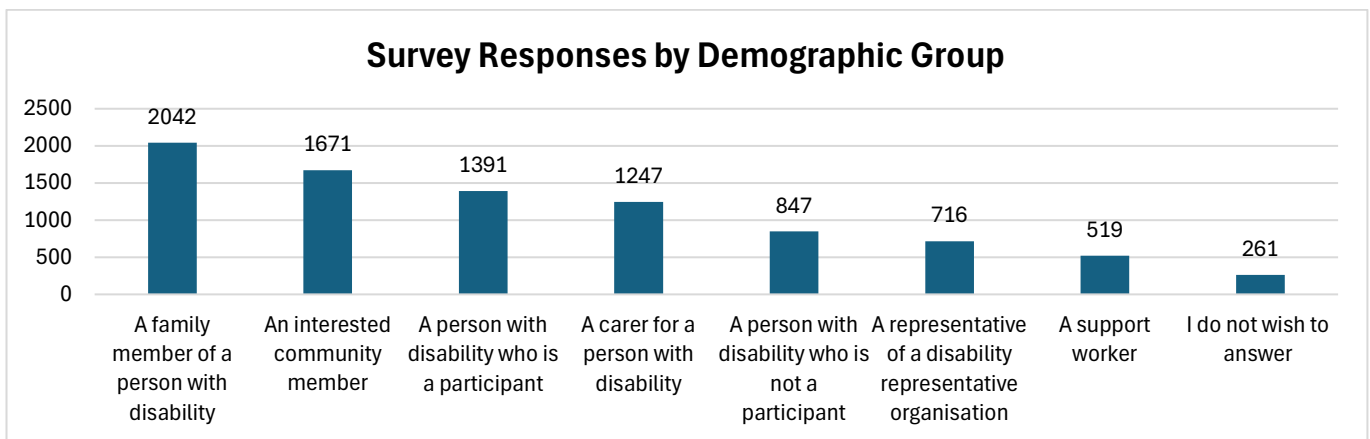
Introduction

This report provides an overview of feedback received during public consultation on the proposed changes to the *National Disability Insurance Scheme Act 2013* (NDIS Act) to provide a definition of National Disability Insurance Scheme (NDIS) supports to help participants and providers understand what NDIS funding can be used for. A comprehensive public consultation report is also available.

Further information on the public consultation including the comprehensive consultation report can be found on the DSS Engage website <https://engage.dss.gov.au/consultation-on-draft-lists-of-ndis-supports/>

Who we heard from

Figure 1: Demographic groups



Note: Respondents were able to select more than one response for this question

The public consultation period was open from 4 August 2024 to 25 August 2024. There was a high level of interest and participation in the process with the Department receiving 6,180 survey responses, 919 email responses and 120 submissions from organisations and peak bodies.

What have we heard?

We heard feedback about the way the consultation process was managed and acknowledge that it did not meet the needs and expectations of the disability community. Feedback from individuals and organisations identified the consultation process was too short for many in the disability community to meaningfully engage with the process, especially as accessible versions of information were not available from the start of consultation.

Generally, feedback suggested the list approach is too prescriptive and there was concern that it could limit choice and control and result in debts being incurred by participants. Several recurring themes were raised through the public consultation. These included:

- a preference for a principles-based approach over a list-based approach
- the need for flexibility in what supports a participant chooses and how they are implemented
- the use of 'carve outs' creating confusion and a lack of clarity
- the need for an exceptions process to allow some supports in specific circumstances

- ensuring standard products are accessible to participants, alongside specialist disability products
- fear about participants unknowingly purchasing something that NDIS funding cannot be used for resulting in debts being owed
- the need for time to understand what the new definition of NDIS Supports means for participants without the risk of incurring a debt.

A significant number of responses demonstrated misunderstanding about the lists as respondents indicated concern that people with disabilities were being restricted from undertaking holidays or engaging in activities that are not NDIS funded. Further information and education is required to clarify that participants are not prevented from accessing these goods or services, rather the NDIS will not fund these supports.

Supports considered to be NDIS Supports

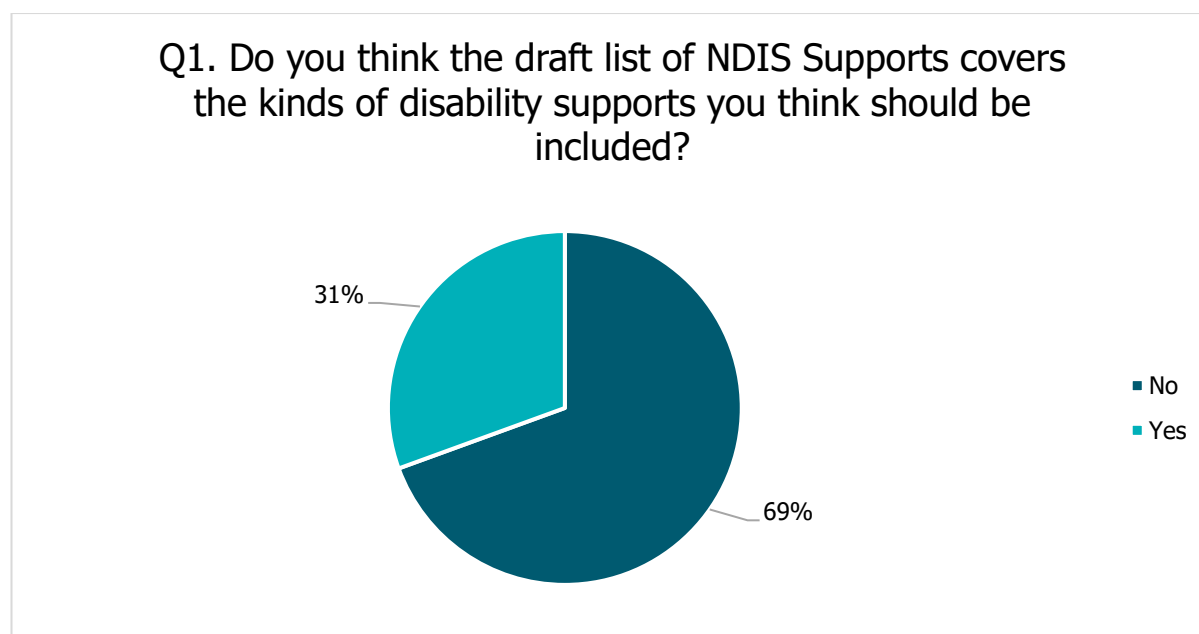
Overall, feedback suggested the categories are too broad and do not provide a good understanding of the actual supports considered to be NDIS Supports. Further education will be required to explain the alignment to current support categories and the broad and beneficial interpretation of the categories of supports considered to be NDIS Supports.

There was also concern regarding the way the lists reflected current interfaces with mainstream services provided by State and Territories and the need for further clarification.

Question 1: Do you think the draft lists of NDIS Supports covers the kinds of disability supports you think should be included.

Response: 69% of respondents answered **No**.

Figure 2: Responses to question 1.

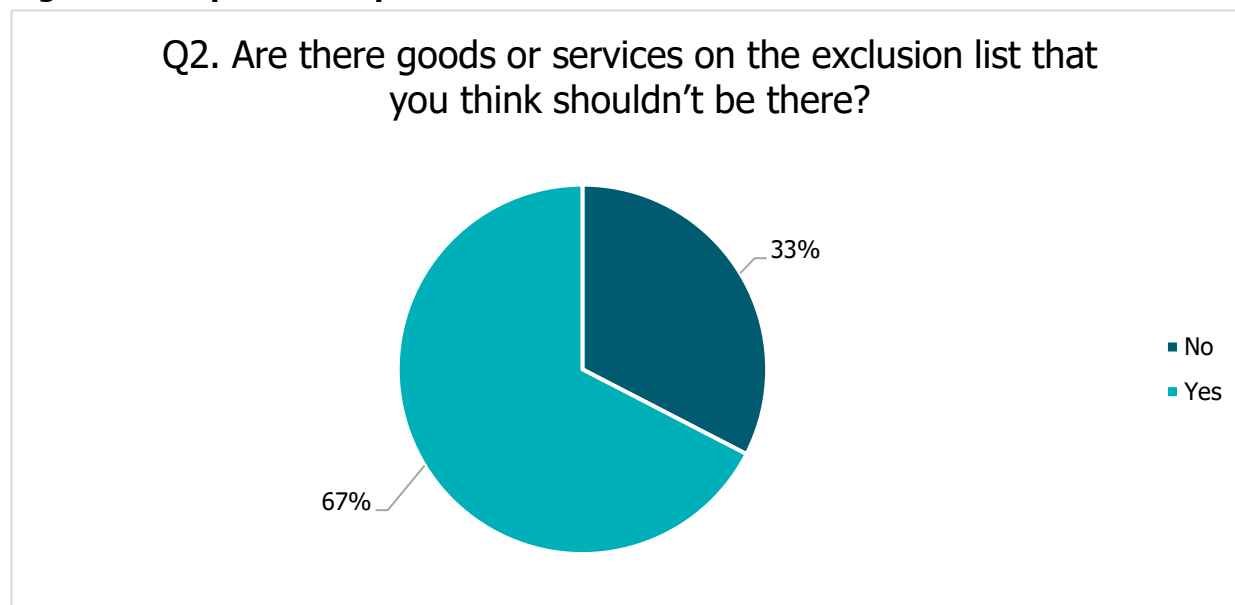


Supports considered not to be NDIS Supports

Question 2: Are there goods or services on the exclusions lists that you think shouldn't be there?

Response: 67% of respondents answered **Yes**.

Figure 3: Responses to question 2.



The following supports were most frequently identified:

- **Sex work and sex toys:** Some concerns were raised regarding limited access to a fundamental human need.
- **Yoga Therapy:** Some respondents presented this as an evidenced-based therapy supporting improved mobility and emotional wellbeing
- **Smart watches:** Respondents identified these as a technology item important for assisting with communication, accessibility and independence
- **Neurofeedback and alternative or complementary medicine:** Some respondents raised these as beneficial therapies to support specific participant needs
- **Standard household items:** Feedback indicated some standard household items can be a cost-effective option to increase independence.
- **Menstrual Products:** There was significant feedback resulting from menstrual products being incorrectly placed under the lifestyle category of the list. Responses indicated participants can have specific needs in relation to managing menstruation that mean standard products are not suitable and highlighted affordability of menstrual products as an issue.
- **Internet Services, land line phone, mobile phones, mobile phone accessories, and mobile phone plans and smart phones:** Respondents identified mobile phones can provide accessibility features that increase independent and internet services can support access to telehealth and reduce isolation.

- **Salon hair washing:** Respondents provided examples of how accessing hair washing and drying services in a salon represents better value for money when compared with support workers, demonstrated hair washing as a cost-effective option for self-care, increasing community participation and dignity for participants.
- **Cruises, holiday packages, holiday accommodation, including overseas travel, Airfares, passports, visa, meals and activities:** Responses identified the need to use respite or Short Term Accommodation (STA) funding in creative ways to meet individual participant needs. This included reference to cruises and holidays as alternate options to provide respite for carers and support social inclusion and increased independence for participants.
- **General massage:** Responses focused on massage being an evidence-based therapy which can improve mobility for people with disability and therefore reducing the need for more costly allied health supports.
- **Specialist Driving Support:** The wording in the list restricted driving supports to only those who required adapted equipment or modified vehicles and did not include participants who may need support to learn to drive due to cognitive or learning disabilities.
- **Sensory assistive technology:** Some responses raised concerns regarding the need to access sensory assistive technology and items such as trampolines.

What we are doing

As a result of the feedback received from the public consultation process, a number of changes have been made to the list of NDIS supports and supports that are not NDIS supports which will become part of transitional rule to come into effect from 3 October 2024.

Summary of changes:

- The support categories have been updated to be more familiar to participants as they better reflect how supports are included in plans, in the Pricing Arrangements, and how they are claimed. More examples of what can be funded under each category are in the NDIS Supports list. The lists will be accompanied by guidance that explains that a broad and beneficial approach is to be taken in relation to interpretation of inclusions.
- This lists no longer use 'carve outs'. There is now one consolidated list of items that are NDIS supports and another consolidated list of items that are not NDIS supports. The new replacements supports process will enable participants to access some goods or services on the list of what is not an NDIS support.
- A replacement process has been developed to support participants to access certain supports that may better meet a participant's support needs. Standard commercially available household items and specific assistive technology, including smart watches, smart phone or tablet will be available through the substitution process for some participants.
- Based on state and territory feedback, the lists have been updated to better reflect existing interface agreements. This includes updated language to more accurately reflect the currently

used Applied Principles and Tables of Support where relevant. For example, the reference to palliative care is better aligned to the current arrangements.

- Menstrual products required specifically due to a participant's disability support needs have been included in 'assistive products for personal care and safety'.
- The focus on 'specialist' products has now been replaced in certain places in the lists with assistive products to support access to the most cost effective solution.
- The NDIS supports list now includes internal and external building modifications to remedy damage arising exclusively from disability-related behaviours or use of NDIS funded assistive technology or equipment.
- The NDIS supports list now includes driver training with a specialised Vehicle Driving Instructor, which may include training on the use of adapted equipment or vehicle modifications.
- Trampolines have been removed from the list of non-NDIS supports.
- Clarification has been made to allow for hair and nail care to be available where a participant has a specific function and/or personal hygiene disability related need.
- In relation to support for First Nations participants, the in-list has been updated to include participation in cultural activities.

Transitional arrangements to allow an educative approach to be taken to the new NDIS Support definition

During consultations, significant concern was raised about the immediate impact of introducing the concept of NDIS supports on participants with stated supports in their plans that will no longer be NDIS supports, including accidental expenditure on a non-NDIS support giving rise to a debt.

To alleviate these concerns, a transitional rule will provide that any support stated in a participant's plan at the commencement of the Amending Act on 3 October 2024 will be considered an NDIS support for that participant until the plan ends. Similarly, supports found by the Administrative Appeals Tribunal to be reasonable and necessary and included in a participant's plan at commencement will be considered NDIS supports for that participant until the plan ends.

In addition, a separate transitional rule will amend the operation of section 182(3) of the National Disability Insurance Scheme Act 2013 (NDIS Act) to prevent a debt from being raised in certain circumstances where a person has purchased a support that is not a NDIS support. A debt will not arise unless one of the following applies:

- the cost of the support is \$1,500 or more, or
- if the cost of the support is less than \$1,500, the NDIA had notified the person about at least 2 previous failures by the person to comply with the requirement to only purchase supports that are NDIS supports.

This means that the purchase of a support that is over the value of \$1,500 will still give rise to a debt. Where the amount is less than \$1,500 the rule allows the NDIA to take an 'educative approach', in effect giving the participant 2 'warnings' before a debt is raised.

The rule will apply to participants for a period of 12 months and to registered plan managers and providers for a period of 30 days following the commencement of the Amending Act.

The Department thanks all who participated in the public consultation process and shared their valuable experiences and ideas to help make important changes to the lists. We are committed to working with disability representative organisations and the community to provide more timely and appropriate information and resources, including in alternative formats such as Easy Read, Auslan and languages other than English for future consultation processes.