

# National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Bill 2024 Consultation on Draft Lists of NDIS Supports

We appreciate the opportunity to provide feedback on the NDIS Legislative Rules (Consultation) and thank the Department of Social Services for inviting input on this critical issue. As a grassroots advocacy group committed to protecting the rights and improving the lives of people with psychosocial disabilities, we welcome the chance to contribute our insights and experiences to shape a more inclusive and effective NDIS framework.

We are the **Australian Psychosocial Disability Collective (APDC)**, a grassroots advocacy group led by individuals with lived experience of psychosocial disability navigating the NDIS. Our mission is to protect the rights and improve the lives of people with psychosocial disabilities within the NDIS framework.

## **Psychosocial Disability and the NDIS Support List**

The APDC is deeply concerned about the potential impacts of the proposed NDIS Support List on people with psychosocial disabilities. While the draft NDIS Supports List may contain several seemingly reasonable provisions, as well as some problematic items, there are grounds for concern about the potential impacts on people with psychosocial disabilities, arising from matters of context, interpretation, and unknowns around the legislation and its yet-to-be-established rules.

Psychosocial disability is often misunderstood and wrongly perceived as a "lesser" disability, but it involves severe, enduring challenges that affect nearly every aspect of life. The Support List, as currently drafted, threatens to narrow the range of supports available, limiting access to crucial services like housing support, therapeutic interventions, assistive technology, and supports for economic participation.

We acknowledge that there are problems with the operation and sustainability of the NDIS, but in the interests of the disability community, care needs to be taken in how reforms are carried out. The nature of psychosocial disability, as distinct from mental illness, needs to be clearly understood and not conflated. Psychosocial disability can be defined as the often severe and enduring consequences of mental ill-health, combined with other social, economic, cultural, and environmental factors, together with co-occurring disabilities and health conditions, the effects of trauma and stigma, and other complex issues.

Psychosocial disability is often severe and enduring, impacting virtually every aspect of life, including employment, education, relationships, social interaction, community participation, cognition, communication, self-care, and mental and emotional wellbeing. Psychosocial disability tends to be linked to co-occurring serious physical health conditions and earlier mortality. Such problems, exacerbated by stigma and discrimination, contribute to high levels of disadvantage, including poverty, housing stress and homelessness, social isolation, food insecurity, disenfranchisement, substance issues, and, sadly, a high incidence of suicide compared to the population averages.

NDIS psychosocial disability support takes place in the context of participants' lives in the community, aiming to support participants in ways not available in the mental health system.

### **Concerns About the NDIS Supports List**

The Support List's narrow definitions risk excluding participants with complex needs from receiving the comprehensive support they require. This is particularly worrying given that psychosocial disability often coexists with serious physical health conditions, trauma, stigma, and other complex issues. The failure to provide adequate, individualised support could exacerbate the disadvantages faced by this community, including poverty, homelessness, social isolation, and higher rates of suicide.

#### **Some specific concerns about the NDIS Supports List include:**

- **Narrowing of Supports:** The list of stated supports may narrow the types, qualities, and depth of supports participants can receive. This seems to depend on interpretation of the list and the effects of numerous factors such as the yet-to-be-established rules relating to the supports needs assessment process, the "reasonable and necessary budgets" mechanism, delineation of "classes" of disability and participants, provider registration, and how the NDIS Supports List will be interpreted within individual participants' NDIS plans.
- **Lack of Co-design:** The lack of meaningful co-design with the disability community will need to be greatly improved upon.
- **The Speed of the Supports List Coming into Effect:** The Supports List is in draft stage, and it is worrying that it will come into effect in only 28 days after the Governor General signs off on the legislation.
- **Uncertainty About Participant Pathways:** It is not yet known how many participants may be moved onto yet-to-be-established foundational supports or an early intervention pathway or the effects of yet-to-be-established rules under a Ministerial legislative instrument.

- **Erosion of Choice and Control:** The Supports List and related measures may weaken the core principle of choice and control by participants in the NDIS over supports they use. People with psychosocial disability have varying needs and aspirations, and there are many considerations to be made on an individual level.
- **Complex Needs:** The list may constrain responses to participants with complex and multiple needs, or “whole of life” and “whole of person” approaches to disability support.

## **Therapeutic Supports**

We are particularly alarmed by the Support List's prescriptive approach to Therapeutic Supports. While evidence-based therapy is vital, the List's focus on "functional skills to improve participation and independence in daily practical activities" neglects the unique needs of people with psychosocial disabilities. Therapeutic support for these individuals is not merely about improving functional skills—it is essential for managing the distress and trauma that many experience daily.

There are a range of therapy modalities that have been placed on the ban list and others not on the supports list at all, which we believe people with psychosocial disabilities should have choice and control in accessing. Therapies such as Art therapy, Music therapy, Equine and Animal-assisted therapy, which are not on the list, can all contribute to building capacity that helps with managing emotional distress and the challenges that many of us face when trying to participate in the community. Most of these therapies do have proper registration processes for therapists under AHPRA or other formal associations.

It is crucial to evaluate these diverse therapeutic options with careful consideration and collaboration, ensuring they are assessed on their individual merits rather than being arbitrarily excluded. The process of including or excluding therapies from the supports list should involve co-design and input from those affected, rather than being determined solely by the Minister or the NDIA CEO without proper consultation.

Rigid criteria for therapeutic support could lead to the exclusion of necessary psychological interventions, particularly those grounded in trauma-informed care. The Australian Association of Psychologists Inc. (AAPi) has expressed concern that the new Support List may deny access to critical psychological services, undermining the principle of providing "reasonable and necessary" supports. We must not devalue the importance of therapeutic support for emotional and psychological wellbeing.

We are also concerned about the List excluding Somatic Therapy, without a clear definition of what Somatic Therapy is. Somatic Therapy can refer to anything from bodywork to Somatic Psychotherapy, and we believe that Somatic Psychotherapy is a legitimate item for participants to access.

### **Concerns About Essential Household Tasks**

In the area of essential household tasks such as cleaning, meal preparation, home and yard maintenance, and laundry, these are in the allowed NDIS supports list on the grounds that the participant's disability prevents them from doing those things. However, these tasks may be rendered debatable in NDIS assessments and planning because of widespread misunderstanding of psychosocial disability. Narrow interpretations of the rule may not sufficiently take into account the many real, serious, and often complex reasons a person with psychosocial disability may not be able to keep up with these daily tasks. Such supports can make a big difference to participants' health, wellbeing, and quality of life, complementing an NDIS plan with a broader range of goals.

### **Interaction Between the NDIS Supports List and Mandatory Registration**

The interaction between the NDIS Support List and the introduction of Mandatory Registration presents further challenges. The combined impact could reduce the availability of essential supports, as Mandatory Registration may see providers exit the NDIS market if they do not want to register due to the cost or time involved in registration. The NDIS Supports List, as it is now, will reduce the number of supports available, so we may see in the future a reduction in both the number of providers and the number of possible supports. This could be particularly harmful in regional and rural areas, where there is already a desert of supports available. We need to ensure that there will be enough necessary supports Australia-wide.

### **The NDIS Supports List and the NDIS Price Guide**

We have serious concerns about the lack of alignment between the NDIS Supports List and the NDIS Price Guide. It seems to us that the NDIS Supports List should have been developed from the Price Guide, making comparisons easier, and utilising the skills and competencies of the NDIA staff who work on the Price Guide. The NDIS Supports List is not as good quality a document as the Price Guide is—the Price Guide is superior in its design, categorisation, and descriptions. The NDIS Supports List is not set out in sections that reflect the current NDIS budgeting process, where we get Core and Capacity Building funding. The NDIS Supports List has several items where the definitions given are unclear. If we knew that there was a long time to work on these problems, it would not matter as much, but we understand that now that the legislation has passed, the Supports List will come into effect in around one month's time.

We currently don't know if the differences in definitions between the Supports List and the Price Guide are due to real differences or because the Supports List is just not written clearly. This hinders

our ability to assess the true impact of these changes. The failure to harmonise these documents creates confusion and risks undermining the clarity needed for effective consultation.

### **Concerns About Excluded Supports**

With non-allowed NDIS supports, we maintain that so-called “standard household items,” like fridges and microwave ovens, should be eligible for funding due to the widespread poverty of participants and the intrinsic contribution they can make to an effective package of supports. Companion animals should be considered favourably because they can provide enormous emotional support. Gym memberships and disability-related services of instructors should be allowed. The exclusion of treatment for drug and alcohol dependency should be lifted.

### **Short-Term Accommodation, Social Participation, and Petrol**

The Supports List does not currently define Short Term Accommodation (STA) in enough detail to know how we can use our STA funding, and whether the current rules for STA are staying the same or changing. We need to see a clearer definition for STA before the List comes into effect to know we are spending our funding in the right way.

There is also a lack of definition in the List about Social Participation. If you look at the Price Guide, there are multiple line items for Social Participation, in both Core and Capacity Building. We need to see better definitions here so we can use our funding correctly.

The List says that petrol is not to be paid for with our funding, but currently the Price Guide allows us to pay \$1 per km to our support workers for fuel and vehicle maintenance. So, this needs to be incorporated into the new List, or it will limit what we can do and where we can go.

### **Core Principles**

The Support List, as it stands, may also undermine the core NDIS principle of participant choice and control. The narrowing of supports and the prescriptive nature of the list could limit the ability of people with psychosocial disabilities to tailor their plans to their individual needs, particularly for those with complex and multiple disabilities.

## Recommendations

To address these concerns and ensure the NDIS framework effectively supports people with psychosocial disabilities, we recommend the following:

- 1. Broaden the Criteria to Access Therapy:** Ensure that emotional and psychological needs are adequately considered in therapeutic supports and ensure co-design when including or excluding therapy modalities.
- 2. Define Somatic Therapy and Permit Somatic Psychotherapy:** Provide clear definitions and allow access to Somatic Psychotherapy as a legitimate support option.
- 3. Ensure Sufficient Availability of Supports Australia-Wide:** Address potential reductions in supports and providers, particularly in regional and rural areas, to ensure equitable access.
- 4. Harmonise the Supports List with the Price Guide:** Align these documents to ensure consistency, clarity, and ease of comparison, leveraging the expertise of NDIA staff.
- 5. Increase the Available Consumables:** Expand the list of consumables to include essential items that assist with disability-related activities.
- 6. Increase the Disability Support Pension Above the Henderson Poverty Line:** Adjust income supports to better meet the living costs of participants.
- 7. Define Short-Term Accommodation and Social Participation Line Items:** Provide clear definitions to ensure appropriate use of funding.
- 8. Include Costs for Fuel and Vehicle Maintenance:** Incorporate allowances for petrol and vehicle maintenance costs in the Supports List.

We urge policymakers to reconsider the draft NDIS Support List and engage more deeply with the lived experiences of those it aims to serve. The NDIS must remain a robust, flexible system that genuinely supports the wellbeing and empowerment of all its participants, especially those with psychosocial disabilities.