



Queensland Alliance for Mental Health

# Draft Lists of NDIS Supports

August 2023

## Who is QAMH?

The Queensland Alliance for Mental Health (QAMH) is the peak body for the Community Mental Health and Wellbeing Sector and people with experiences of psychosocial disability in Queensland. We represent more than 100 organisations and stakeholders involved in the delivery of community mental health and wellbeing services across the state. Our role is to reform, promote and drive community mental health and wellbeing service delivery for all Queenslanders, through our influence and collaboration with our members and strategic partners. We provide information about services, work to build community awareness, education and training to influence attitudes and remove barriers to inclusion and advise government on issues affecting people with experiences of psychosocial challenges. At a national level, we have a formal collaboration with Community Mental Health Australia and provide input and advice to the work of Mental Health Australia and the National Mental Health Commission where appropriate. Locally, we work alongside our members, government, the Queensland Mental Health Commission and other stakeholders to add value to the sector and act as a strong advocate on issues that impact their operations in Queensland communities.

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### Acknowledgement of Country

QAMH acknowledges the Traditional Custodians of the land on which we live, learn, and work and recognises their continuing connection to land, waters and community. We pay our respects to them and their cultures; and to Elders past, present and emerging.

### Recognition of Lived Experience

QAMH recognises that the Community Mental Health and Wellbeing Sector exists because of people with Lived Experience of mental distress, their families, carers and support people. We acknowledge the expertise and the courage of people with Lived Experience, and we commit to work with and alongside people with Lived Experience in all we do.

## Background

QAMH welcomes the opportunity to provide a submission to the Department of Social Services on the Draft Lists of National Disability Insurance Scheme (NDIS) Supports for the NDIS Amendment (Getting the NDIS back on Track No. 1) Bill 2024.

QAMH hold significant concerns regarding these lists. We recommend that they are not adopted without substantial revision to reflect current practice. Without this, they are likely have the effect of excluding people with psychosocial disability from the NDIS before a fully functional system of foundational psychosocial supports is established. We also hold extreme concern for the impact that these lists may have on individual participants and the psychosocial disability community if debt-raising powers are applied retrospectively based on these lists.

QAMH acknowledge that there are vast inequities in support for people outside the NDIS. The recent public release of the national Analysis of Unmet Need for Psychosocial Support Outside the NDIS highlights just how immense the problem is: 230,500 people with severe mental illness and 263,100 people with moderate mental illness are not receiving the psychosocial support they need according to data from 2022-2023<sup>1</sup>. This number far exceeds previous estimates of 154,000 from the Productivity Commission in 2020, and magnifies the urgent need for fully-funded, high quality services that can meet the scale of this challenge. QAMH has been a vocal advocate for the need to address this extensive gap in psychosocial support.

Crucially however, the Unmet Needs Analysis estimates unmet need for psychosocial supports outside the NDIS based on *current levels of NDIS psychosocial support provision*. QAMH is concerned that – if accepted in its current form – this List of Supports could effectively exclude an additional 101,036 Australians<sup>2</sup> who have severe, chronic, and complex psychosocial disability needs and who currently access NDIS support for psychosocial disability, as either a primary or secondary disability. This is a total of 594,636 Australians who will potentially be without support until a properly designed and funded system is in place.

It is critical that we get these changes right.

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<sup>1</sup> Health Policy Analysis. (2024). *Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme*. Accessed online 19/08/2024 at [Final Report - Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme \(health.gov.au\)](https://health.gov.au/resources/2024/08/19/analysis-of-unmet-need-for-psychosocial-supports-outside-of-the-national-disability-insurance-scheme)

<sup>2</sup> National Disability Insurance Scheme. (2024) *Participant datasets*. <https://dataresearch.ndis.gov.au/datasets/participant-datasets>

Without broad and adequate access to the right support at the right time, not only will people with psychosocial disability be potentially worse off, but unpaid carers – including children – will again be left to fill the gap, perpetuating, and reinforcing the current issues of mental ill health facing our communities.

There is plenty of work ahead before governments can adequately respond to this monumental gap, including renegotiation of the Bilateral Agreements between the Commonwealth and states and territories on the NDIS and the development of the Foundational Supports Strategy. Continuity of supports for participants must be maintained – both in terms of plan funding and workforce capacity – until this work is done. In the meantime, the Government needs to send a very clear message to reassure people with psychosocial disability, the community, and the sector that supports for psychosocial disability will still be available under the NDIS, as per current practice.

## 1. Supports the List should include as approved supports

### Specialised mental health supports

The current Applied Principles and Tables of Supports (APTOS) table outlines the agreed principles by which governments determine the funding and delivery responsibilities of the NDIS and is approved by the Council of Australian Governments<sup>3</sup>. NDIS guidance<sup>4</sup> on psychosocial disability supports is available on the NDIS website.

QAMH strongly advise that the list must be urgently revised to clearly identify specialised mental health supports that are current practice according to NDIS guidance and APTOS responsibilities including, but not limited to:

- Mental Health Support Worker (as per current APTOS for psychosocial support)
- Mental Health Peer Support Worker (as per APTOS agreement for psychosocial support)

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<sup>3</sup> Department of Social Services. (2015). *The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems*. Accessed online 14/08/2024 at [The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems | Department of Social Services, Australian Government \(dss.gov.au\)](https://www.dss.gov.au/ndis-supports)

<sup>4</sup> National Disability Insurance Agency. (2023). *Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health*. Accessed online 20/08/2024 [Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health](https://www.ndis.gov.au/ndis-supports)

- Psychosocial Recovery Coaching (as per current NDIS guidance and APTOS agreement for ongoing psychosocial recovery support)
- Capacity building / functional psychology (as per current NDIS guidance)
- Mental health occupational therapy (as per current NDIS guidance for functional capacity building support)
- Family and carer supports to support people in their mental health carer role, including family therapy (as per APTOS agreement)
- Counselling to build functional capacity delivered by a person who is either a member of the Australian Counselling Association or an accredited Registrant with the Psychotherapy and Counselling Federation of Australia (as per current NDIS guidance)
- Specialist Support Coordination - Mental Health
- Specialised Cleaning and Decluttering Support – High Intensity Support (currently accessed flexibly as per APTOS agreement for psychosocial support)
- Art therapy to build functional capacity delivered by person who is a Professional Member with the Australian, New Zealand and Asian Creative Arts Therapy Association (ANZACATA) (as per current NDIS guidance)
- Music therapy to build functional capacity delivered by a person who is an Active “Registered Music Therapist” with the Australian Music Therapy Association (as per current NDIS guidance)
- Animal-assisted therapy to build functional capacity delivered by an AHPRA registered professional such as a psychologist or occupational therapist (as per current NDIS guidance)
- Wilderness/outdoor/adventure therapy delivered by an AHPRA registered professional such as a psychologist or occupational therapist (as per current NDIS guidance)
- Mental health retreat (currently accessed flexibly as short-term accommodation and respite support)
- Mental health apps that address functional impacts of psychosocial disability (currently accessible under low risk, low-cost technology)

These are all disability-related supports that are effective, beneficial, and value for money. According to the APTOS, they fall under the responsibility of the NDIS and are currently approved and able to be accessed using NDIS funding. The Department's discussion paper states that the draft Lists reflect current practice and the existing APTOS. However, none of the supports mentioned above are included in the List as approved supports. QAMH strongly recommends updating the List to include these supports for two reasons:

1. To accurately reflect current practice, as per the List's intention

2. To ensure that people with psychosocial disability are not unfairly disadvantaged during the transitional period.

Including psychosocial supports and therapies under broad general categories as the current approved List does is insufficient. Given that the functional impacts of psychosocial disability are often poorly understood by the general community, and NDIA staff may lack adequate training and experience, more specificity is crucial. It can also be difficult to understand the difference between “clinical” support and “functional capacity building” supports, making it important to clearly specify the conditions under which NDIS approves therapeutic support. Clearly labelling these roles as mental health roles and supports is important to ensure that supports for psychosocial disability are easy for access and planning decision makers to identify within the List and remove any doubt or confusion for NDIS staff, participants and support providers about what can be legitimately funded by NDIS.

The concept of an ‘NDIS support’ in the Bill has significant implications for planning decisions, access and early intervention. These Lists effectively determine eligibility, as demonstrating likely benefit from NDIS support is a key criterion for access under both the Early Intervention pathway and the Disability pathway. Clear identification of specialised supports within the List is crucial to ensure that those for whom the NDIS is designed – people with severe, complex and chronic psychosocial disability needs – can maintain access during reassessment processes if they require ongoing support. Including specialised psychosocial supports and functional capacity building therapies is essential to reduce the potential for incorrect access and planning decisions. It also helps mitigate the risk of incorrect debt-raising, as highlighted in Section 3. QAMH holds serious concerns that both scenarios could have devastating impacts on people with psychosocial disability.

QAMH emphasises that roles such as Mental Health Support Worker and Psychosocial Recovery Coach should also be appropriately priced. This pricing should account for higher levels of training and supervision, ensuring high-quality, safe and effective service delivery that meets required standards and legislation. In our previous [submissions](#) to the NDIS Review, QAMH has already highlighted the need to reassess the NDIS cost model in this context.

## **General supports which address disability-related needs unique to psychosocial disability**

While the list should be expanded to specify specialised mental health supports, NDIS supports for people with psychosocial disability should not be restricted to these alone. There are other highly beneficial, strongly disability-related supports that offer value for money and significantly build capacity when combined with specialised services. For instance, individuals experiencing psychosocial disability due to severe hoarding disorder arising from their mental health condition may benefit from support to manage their surroundings. This could include furniture or rubbish removal combined with specialised cleaning, decluttering support, and therapy. Such an approach gradually builds capacity and improves social and economic participation over time. Respite support is another example that

shouldn't require delivery by disability-specific providers to be NDIS-accessible and address a disability-related need. Limiting NDIS supports like respite delivery via group daily living supports promotes exclusion and segregation, contradicting the NDIS's ultimate goal of community inclusion. In Section Two below, we've identified examples of general supports for psychosocial disability that should be transferred from the Day-to-Day Living category to the list of approved supports in Section Two below.

## 2. Items that shouldn't be on the draft exclusion list

### Psychosocial Recovery Coaching

Ongoing Psychosocial Recovery Coaching (PRC) is a current NDIS line item that has been included draft exclusion List under the Mainstream Support - Mental Health category as a carve out which may be approved as an exception in some circumstances. However PRC is **not** currently a mainstream support as this implies. Including it in this category is blatantly misleading.

QAMH's 2023 workforce survey of the Community Mental Health and Wellbeing Sector revealed that while the sector delivers supports with elements similar to PRC, Psychosocial Recovery Coaching is primarily delivered as an NDIS support<sup>5</sup>. The current APTOS also identifies "ongoing psychosocial recovery support" as an NDIS responsibility.

While the NDIS Review has suggested that proposed navigation supports may cover some PRC functions in the future, there is little agreement or clarity about what Navigator roles will entail, their eligibility criteria, or the extent of available supports. Minister Bill Shorten has announced that National Cabinet will consider the Foundational Supports Strategy in the second half of 2024<sup>6</sup>, which is expected to provide this detail. However QAMH notes that consultation on this strategy has been patchwork and limited to date.

Importantly, foundational supports are not necessarily expected to meet the needs of people with severe, complex and enduring psychosocial disability support needs. The NDIS Review recommended that foundational supports should be "general – for all people with disability, and targeted – for people with *lower level support needs* who are not eligible for the NDIS"<sup>7</sup>. QAMH emphasise the critical importance of releasing the Foundational Supports Strategy before any legislative changes that might

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<sup>5</sup> Queensland Alliance for Mental Health. (2023). *Community Mental Health and Wellbeing Workforce Survey Report*. [Community Mental Health and Wellbeing Workforce - Queensland Alliance for Mental Health \(qamh.org.au\)](https://qamh.org.au)

<sup>6</sup> Ministers for the Department of Social Services. (2024). *Building a strong ecosystem of disability supports – Media Release*. Accessed online 16/08/2024 at <https://ministers.dss.gov.au/media-releases/13711>

<sup>7</sup> NDIS Review. (2023). *Foundational Supports for all People with Disability*. Accessed online 22/08/2024 at <https://www.ndisreview.gov.au/resources/fact-sheet/foundational-supports-all-people-disability>

impact people's ability to maintain NDIS support. This is crucial to prevent people with high level needs from falling through support gaps.

PRC is the only NDIS line item specifically identified as a support for psychosocial disability. QAMH is concerned that putting it on the exclusion List as a carve-out significantly increases the risk of incorrect planning and access decisions as this is currently the only clearly identifiable support for psychosocial disability on the list. In addition, by treating the main NDIS support for psychosocial disability differently to other current NDIS line items for other disability types, including PRC on this list appears to reflect unlawful discrimination against people with psychosocial disability. These concerns are outlined further in Section 3 below. While QAMH acknowledges that Specialised Support Coordination may be an appropriate alternative to PRC, it needs to be clearly identified as a mental health-specific role. This role should require requisite mental health training and options for Lived Experience identified roles if it is intended to be built into plans this way in the future.

It's widely acknowledged that outcomes for psychosocial disability often take longer to realise, and the relatively recent introduction of PRC means its full benefits are yet to be properly understood. Plan utilisation, while often used as a metric, is a poor proxy for real outcomes, especially for vulnerable participants experiencing complex circumstances. For instance, plan utilisation may be low if a participant is hospitalised, involved with the justice system, or facing other challenges that impact their ability to use their plan. Despite these limitations, the limited evaluation available indicates that PRC is an effective support for people with psychosocial disability<sup>8</sup>. Likewise, QAMH is aware of numerous reports from Participants with psychosocial disability that indicate that – qualitatively - the benefits of PRC can be lifechanging.

For example:

*"I was diagnosed with bipolar disorder in 2007 and what that looks like for me on a day to day basis is the experience of fluctuating states of depression, anxiety and paranoia for long periods of time with mania resulting in psychosis every one to two years. Shortly after I moved back to ████████ in February of 2022, I was assigned [a] dynamic and passionate Recovery Coach. I was plagued with worries for the first few months and with [my recovery coach's] support I was able to find solutions. Without shame, I felt free to discuss the details of my anxieties with her and based on her incredible insight and support was able to quieten down the voices...I was a practicing artist for most of my life up until about five years ago. I have a new idea for a series and am set on resuming my studies to become an art therapist. But, slowly slowly goes. Another element of my illness is to think I am invincible and can take on the world. As previously mentioned mania can lead to psychosis and too much excitement can lead to mania. It's a balancing act and I*

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<sup>8</sup> Centre for Social Impact and Swinburne University. (2023). *Psychosocial Recovery Coaching: Client outcomes and experiences*. Accessed online 14/08/2024 at [Psychosocial Recovery Coaching: Client outcomes and experiences \(swinburne.edu.au\)](https://www.swinburne.edu.au/psychosocial-recovery-coaching-client-outcomes-and-experiences)



*must listen for the early warning signs. Having the NDIS with supportive individuals, such as [my recovery coach] means I am not alone in my journey. If I miss some early warning signs they are there to remind me to stay on track on my healing journey.” ~ [REDACTED].*

*“Since I started working with...my recovery coach, I joined a program at HAPPY PAWS HAPPY HEART with prospects of work. I also finally got a companion card and finalised my housing application too! I’m feeling positive about my future and every week I look forward to going to the RSPCA centre for my program.” ~ [REDACTED].*

QAMH has also conducted extensive consultation with people with Lived and/or Living Experience of psychosocial disability. The consistent message from these consultations is clear: people want one key contact. PRC fulfils this crucial need by providing a single, trusted point of contact. This approach allows individuals to build their capacity to engage with additional supports gradually over time.

To date, the main issues with PRC that QAMH has identified through consultation have been that:

- Pricing has not adequately covered the higher training and support requirement of this role in comparison to Support Coordination; and
- There needs to be greater clarity in what the role provides<sup>9</sup>.

## Other supports

QAMH also notes that several supports currently categorised under either the ‘Day-to-Day Living’ or ‘Not Effective and Beneficial’ should be reconsidered. These supports should either be included in the approved supports List or clearly identified as carve outs for participants with psychosocial disability.

- **Wilderness therapy** [also known within the literature as Adventure/Outdoor/Nature-based therapy]: There is significant peer-reviewed evidence that shows powerful physical and mental health benefits of outdoor and adventure-based therapy, that directly address functional impacts of psychosocial disability including improving social and community participation, ability to engage with others, motivation, resilience, concentration, adherence, and ability to

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<sup>9</sup> Queensland Alliance for Mental Health. (2023). *NDIS Review Submission – Building a Strong, Effective NDIS*. [NDIS Review – Building a Strong, Effective NDIS - Queensland Alliance for Mental Health \(qamh.org.au\)](https://qamh.org.au)

cope with stress. See for example <sup>10 11 12 13</sup>. QAMH recommends that adventure and/or wilderness therapy delivered by a registered AHPRA professional to build functional capacity be clearly specified on the approved supports List, along with other therapies such as art, music, and animal-assisted therapy.

- **Recreational supports:** Services delivered in a gym or recreational club related to the participant's disability support needs (excluding the cost of membership, entry, or basic equipment) are currently included as a Day-to-Day Living carve out. QAMH recommend that these should be clearly identified as approved supports for participants with psychosocial disability.
- **Gaming therapy:** Games-based social and recreational support facilitated by an allied health professional/s are currently used by providers as an effective and beneficial way to address functional impacts of psychosocial disability and autism spectrum disorder (ASD), including improving social participation and communication skills. QAMH recommend that these should be clearly identified as suitable support for participants with psychosocial disability and ASD.
- **Hotel/motel accommodation:** See discussion in Section 2. QAMH recommend that these should be clearly identified as carve outs in the Day-to-Day Living category for participants with psychosocial disability.
- **Furniture/rubbish removal:** See discussion in Section 2. QAMH recommend that these should be clearly identified as carve outs in the Day-to-Day Living category for participants with psychosocial disability.
- **Security systems:** People with psychosocial disability can experience concerns for their safety that limit their ability to participate in the community. Security systems can be an effective, low-cost support that addresses disability-related needs. QAMH recommend that these should be clearly identified as carve outs in the Day-to-Day Living category for participants with psychosocial disability.

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<sup>10</sup> Bowen, D.J., Neill, J.T. and Crisp, S.J.R. (2016). *Wilderness adventure therapy effects on the mental health of youth participants*. Accessed online 22/08/2024 at [Wilderness adventure therapy effects on the mental health of youth participants - ScienceDirect](#)

<sup>11</sup> Bowen, D. J., & Neill, J. T. (2013). *A meta-analysis of adventure therapy outcomes and moderators*. The Open Psychology Journal, 6, Article 28-53. <https://doi.org/10.2174/1874350120130802001>

<sup>12</sup> Gladwell V.F., Brown D.K., Wood C., Sandercock G.R., and Barton J.L. (2013). *The great outdoors: how a green exercise environment can benefit all*. *Extrem Physiol Med*. 2013 Jan 3;2(1):3. Accessed online 22/08/2024 at [The great outdoors: how a green exercise environment can benefit all - PMC \(nih.gov\)](#)

<sup>13</sup> Bowen, D.J and Neill, J.T. (2016). *A Meta-Analysis of Adventure Therapy Outcomes and Moderators*. Accessed online 22/8/2024 at [Microsoft Word - Bowen-TOPSYJ.doc \(benthamopen.com\)](#)

### 3. Do you have any further feedback or concerns with the draft NDIS support lists?

#### Lack of time for consultation

The timeframe provided for review of these lists by people with disability, the community, providers, and legal experts is grossly inadequate, especially considering the significant impact and legal standing these Lists will have. It is particularly concerning that the Senate has passed this legislation before the community consultation closed on these Lists. This hasty process has not allowed the disability or legal communities sufficient time to thoroughly review and discuss the potential impacts of these the Lists.

#### The List should reflect current practice and responsibilities, until otherwise agreed and planned for.

The current approved List does not reflect current practice and responsibilities. As the Department has stated in its Discussion Paper, the intent of these Lists is to broadly reflect current practice to provide clarity for participants, nominees, providers and the disability community when selecting their supports. It is not meant to change the types of supports that are appropriate to purchase with NDIS funding.

QAMH highlight that it is absolutely critical that the approved List clearly and specifically lists supports that are currently approved for psychosocial disability to remove any ambiguity. We are concerned that the current approved List:

- **Does not clearly reflect current NDIS guidance on supports for psychosocial disability:** Current NDIS guidance states that the “NDIS is responsible for ongoing functional capacity building supports and supports for daily living when needed. A goal of the NDIS is full inclusion of people with disability, including psychosocial disability, in community<sup>14</sup>.” It also states “NDIS funds psychology support for eligible participants if it meets reasonable and necessary criteria. NDIS funded psychosocial disability supports are non-clinical supports. They must be focused on improving the functional ability for a participant to achieve their goals and on improving

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<sup>14</sup> National Disability Insurance Agency. (2023). *Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health*. Accessed online 20/08/2024 [Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health](#)

social and economic participation<sup>15</sup>.” Internal guidance (not available online) clarifies what approved therapeutic supports can be delivered by an appropriately registered professional.

- **Does not clearly reflect current APTOS responsibilities:** The APTOS Table clearly states that “The NDIS will be responsible for ongoing psychosocial recovery supports that focus on a person’s functional ability, including those that enable people with mental illness or a psychiatric condition to undertake activities of daily living and participate in the community and in social and economic life. This may also include provision of family and carer supports to support them in their carer role, and family therapy, as they may facilitate the person’s ability to participate in the community and in social and economic life<sup>16</sup>.” This includes:
  - Support for community reintegration and day-to-day living including development of skills, assistance with planning, decision-making, personal hygiene, household tasks, social relationships, financial management, transport, support for accommodation access, and community connections provided other than were provided as an integral part of an established treatment program.
  - Allied health and other therapy directly related to managing and/or reducing the impact on a person’s functional capacity of impairment/s attributable to a psychiatric condition, including social and communication skills development, routine symptom and medication management, and behavioural and cognitive interventions.
  - Capacity building support to help the person access and maintain participation in mainstream community, including recreation, education, training and employment, housing, and primary health care.
  - Community supports aimed at increasing a person’s ability to live independently in the community or to participate in social and economic activities, including in-home and centre-based care, recreational activities, day centre services and holiday care, community access (including life skills and social skills day programs).
  - The coordination of NDIS supports with the supports offered by the mental health system and other relevant service systems<sup>17</sup>.

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<sup>15</sup> National Disability Insurance Agency. (2023). *Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health*. Accessed online 20/08/2024 [Psychosocial Disability Access Factsheet 5: NDIS and other services supporting your mental health](#)

<sup>16</sup> Department of Social Services. (2015). *The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems*. Accessed online 14/08/2024 at [The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems | Department of Social Services, Australian Government \(dss.gov.au\)](#)

<sup>17</sup> Department of Social Services. (2015). *The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems*. Accessed online 14/08/2024 at [The Applied Principles and Tables of Support to Determine the Responsibilities of the NDIS and other Service Systems | Department of Social Services, Australian Government \(dss.gov.au\)](#)

The current lists are notably imbalanced: they are vague about what is included, yet highly specific about what is excluded. QAMH emphasises the critical need for these lists to clearly and specifically identify which supports related to psychosocial disability are able to be legitimately funded by NDIS. This level of detail is essential to prevent misinterpretation and ensure fair outcomes for people with psychosocial disability. This is essential to avoid:

- Access and planning errors that exclude people with severe, complex and chronic psychosocial disability from the NDIS and that reduce plan funds incorrectly;
- Incorrect debts being raised against participants with psychosocial disability for funds that are spent correctly according to current guidance and advice;
- Further widening of the substantial existing gap in psychosocial supports, and associated impacts on informal carers and community; and
- Unlawful discrimination against people with psychosocial disability under the Disability Discrimination Act 1992.

QAMH do not believe including “exceptions” as currently suggested within the amendments is satisfactory to mitigate these impacts.

Each of these points is addressed individually below.

## **Impact on people with psychosocial disability, carers, and the gap in psychosocial supports.**

### **Maintaining equity in NDIS access and planning processes for people with psychosocial disability.**

QAMH are concerned that these Lists are likely to increase access and planning errors that:

- Incorrectly exclude people with severe, complex and chronic psychosocial disability who are likely to benefit from NDIS individualised support from the NDIS;
- Incorrectly limit what participants can spend NDIS funds on;
- Incorrectly assess eligibility in needs reassessments;
- Incorrectly limit people with dual (comorbid) disability from being able to access mental health trained support workers for their physical disability support needs, impacting safety and quality for participants; and/or
- Incorrectly reduce plan funds.

The approved List is open to misinterpretation and fails to accurately reflect current practice or APTOS responsibilities. By not explicitly including specialised mental health supports, such as the current NDIS line item of ongoing Psychosocial Recovery Coaching, the List significantly reduces the likelihood that those who would substantially benefit from NDIS support – people with severe, enduring and complex mental health challenges – will meet access criteria. This is particularly problematic when it comes to demonstrating that they would ‘benefit from NDIS support’. Making NDIS supports relevant to psychosocial disability vague, unclear, unspecified, or only supported in special circumstances diminishes the likelihood that those making access and planning decisions will assess people with legitimate psychosocial disability-related needs as likely to benefit from the NDIS. This is crucial, as it’s a key criterion under both the disability and proposed early intervention pathway.

### **There are dangerous implications of raising debts based on these Lists.**

As DSC noted in a recent article, “The proposed NDIS Bill also gives the NDIA debt-raising powers or the ability to change a person’s plan management type if they do not spend their funding on a NDIS support or in accordance with their plan. The government has said that it only intends to use these powers for cases of outright fraud. But there remains a legal risk that people could have a debt raised against them for not spending according to this list<sup>18</sup>.” QAMH are extremely concerned that – by stating that this list reflects current practice when it very clearly doesn’t – people may have debts incorrectly raised against them for past spending, despite having spent their funds correctly according to current advice. QAMH is very aware (and it has been highlighted in recent high profile media reports) that these impacts could be disastrous for people with psychosocial disability. The Government must assure the disability community that debts will not be raised retrospectively based on these Lists, or we will face tragic Robodebt-like consequences all over again, but worse.

### **Widening the gap in psychosocial supports and the impact on carers and the wider community.**

As we have noted in our introduction, there is plenty of work ahead before there is a fully-funded and well-established system of foundational psychosocial supports outside the NDIS. Continuity of supports for participants must be maintained until this work is complete to avoid increasing the number of people with moderate to severe psychosocial disability needs who are missing out on support. Otherwise, informal carers – where people have such supports – will need to fill this gap, further contributing to the current mental health crisis in Australia.

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<sup>18</sup> DSC. (2024). *The Far Reaching List of NDIS Supports*. Accessed online 16/08/2024 at <https://teamdsc.com.au/resources/the-far-reaching-draft-list-of-ndis-supports>

### **The government is at risk of unlawful discrimination should this list be adopted.**

Disability-related supports look different for people with psychosocial disability. The approved List does not include any specialised supports for psychosocial disability, including the current PRC line item. These lists represent a fundamental misunderstanding of psychosocial disability at best, and blatant discrimination that attempts to exclude people with psychosocial disability from the NDIS at worst. According to the Disability Discrimination Act, Section 29 - Administration of Commonwealth laws and programs, it is “unlawful for a person who performs any function or exercises any power under a Commonwealth law or for the purposes of a Commonwealth program...to discriminate against another person on the ground of the other person’s disability in the performance of that function, the exercise of that power or the fulfilment of that responsibility<sup>19</sup>” where discrimination is defined as treating the person or cohort differently to person without that disability. QAMH recommend that this potential for discrimination is urgently addressed by including specialised supports for psychosocial disability in the approved List.

### **Both NDIS *and* foundational supports should be available for people with psychosocial disability, depending on needs.**

While QAMH have been vocal advocates for a strong system of foundational supports, we do not believe this negates the importance of making NDIS supports accessible for people who need them: people with severe, enduring, and complex psychosocial disability. Improving the quality and accessibility of psychosocial support via the NDIS was a key recommendation of the NDIS Review, and one which QAMH was pleased to see. Ultimately, QAMH believe it is important for people with psychosocial disability to be able to access the right support, at the right time. NDIS funding is unique in that it provides a cluster of supports in an individualised funding package which can be used to purchase a combination of supports, including highly tailored or innovative supports if required. QAMH recommend that NDIS criteria relating to ‘benefit from NDIS support’ should reflect the differences between individualised funding packages and block funding, rather than solely the types of supports available within each service system.

### **Workforce impact and continuity of support**

The current state of confusion regarding whether psychosocial supports will continue to be funded by NDIS is already causing providers to exit the market, leaving current participants without supports to transition to with severe impacts on their levels of mental distress. We are also at risk of losing a trained

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<sup>19</sup> Australian Government. (2022). Federal Register of Legislation. *Disability Discrimination Act 1992*. Accessed online 14/08/2024 at [Federal Register of Legislation - Disability Discrimination Act 1992](#).

and suitable workforce in a time of extensive workforce shortages. QAMH reiterate that it is crucial that – to manage this transitional period safely and well - the Government needs to send a very clear message to reassure people with psychosocial disability, the community, and the sector that supports for psychosocial disability will still be available under the NDIS, as per current practice, until otherwise agreed and planned for.

## **Terminology of the lists**

There are numerous areas of duplication and confusion in the lists, where terminology needs to be clarified. For example, tenancy support is currently on both lists. Employment support is also an area where there is significant confusion regarding what is and isn't considered a NDIS support. These overlaps should be addressed to ensure that the Lists are as clear as possible for NDIS staff, participants, and support providers to interpret.

## **Ethnocentricity of the lists**

QAMH note that the current exclusion List reflects a highly western ethnocentric concept of “effective and beneficial”. There is plenty of evidence that alternative therapies and spiritual practices from other cultural backgrounds can be highly effective and beneficial for people with psychosocial disability. We recommend that this be considered when formulating the final Lists of supports.

## **Supports decided by Administrative Appeals Tribunal**

There are supports on this list which have been found by the Administrative Appeals Tribunal to be allowable under current Reasonable and Necessary criteria. These decisions should be upheld to ensure that the list reflects current practice, until further consultation is complete, and agreement is reached.

Thank you for the opportunity to contribute to this consultation process. We look forward to continuing to work with the Australian Government to better the lives of people living with psychosocial disability. Please do not hesitate to contact QAMH should you require any further information.