



Australian Government
Department of Social Services

Consultation on Draft Lists of NDIS Supports

Full Report



Contents

Full report on the public consultation on draft lists of NDIS Supports	2
Contents.....	1
Acknowledgements.....	1
Summary	2
Who we heard from.....	3
Overarching themes.....	4
What we heard about the inclusion list	8
What we heard about the exclusion list	22
Appendices	37

Acknowledgements

The department acknowledges Aboriginal and Torres Strait Islander peoples throughout Australia and their continuing connection to lands from which we all work, live and meet on, water, culture and community. We pay our respects to the Elders both past and present.

The department also acknowledges and thanks everyone who shared their perspectives as a part of this public consultation. We particularly thank people with disability, whose effort, expertise and lived experience have provided invaluable feedback and insights.

Summary

The Australian Government is committed to improving the experience of participants in the National Disability Insurance Scheme (NDIS), their families and carers. The Independent Review into the NDIS (NDIS Review) made 26 recommendations with 139 actions. Part of progressing this important reform agenda, enabled by the *NDIS Amendment (Getting the NDIS Back on Track No.1) Act 2024* (the Act), includes moving towards more flexible funding and better defining what are NDIS supports.

This public consultation focused on drafts lists to define NDIS supports to inform a transitional rule related to section 10 of Act. The transitional rule will be in place until a permanent Category A rule is developed with the disability community and agreed with states and territories.

The consultation period opened on 4 August 2024 and closed on 25 August 2024. We welcome the high level of interest and participation in the public consultation on these changes, which received 6,180 survey responses, 919 email responses and 120 submissions from organisations, peak bodies and other stakeholders.

We also 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. We are committed to working with disability representative organisations 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.

This report summarises what we have heard through this public consultation. It also describes how the feedback and information provided during the public consultation has been used to improve draft lists that will define NDIS supports in the transitional rule.

A number of overarching 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
- the use of 'carve outs' creating confusion and a lack of clarity
- the need for an exemption or exceptions process to accompany the lists
- ensuring general and standard products are accessible to participants, alongside specialist disability products
- concern 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
- the whole of disability supports needs to be considered together.

We also received specific feedback on the draft inclusion and exclusion lists, which is summarised below.

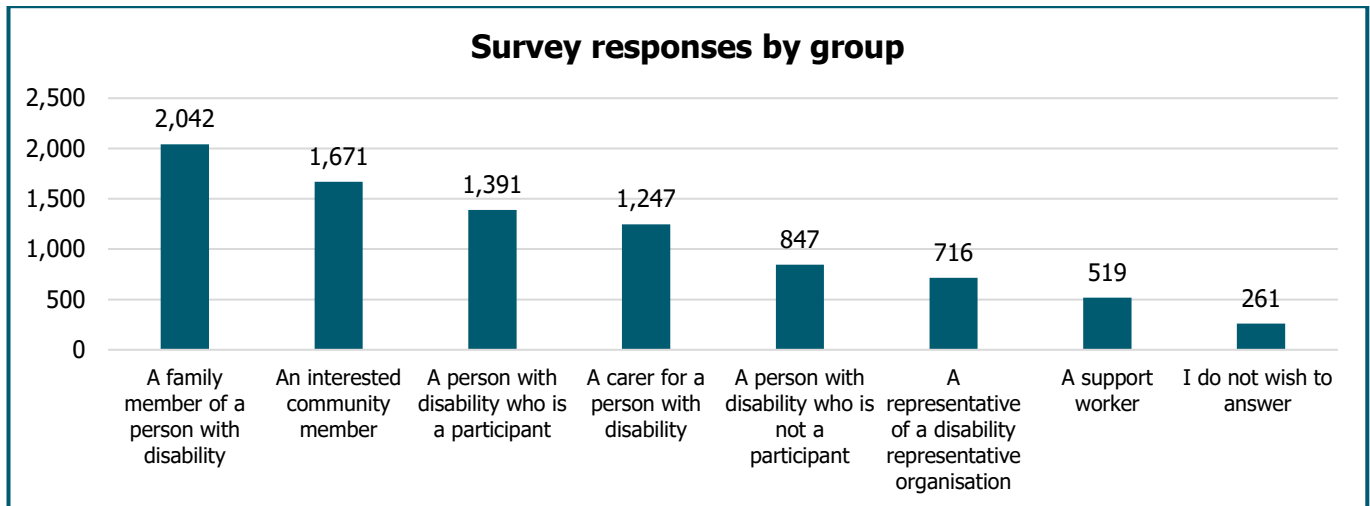
Some of the feedback received related to the broader reforms and has been valuable in understanding concerns. This feedback will be used to inform the reform process and ongoing communications.

Who we heard from

We heard from a wide range of interested stakeholders throughout the three-week public consultation. The department received responses through a number of methods, including online survey, email feedback, written submissions and telephone calls.

The online survey was the most commonly used method in providing feedback on the draft lists of NDIS Supports. The survey asked respondents to select options which best captured their individual circumstances or perspectives, noting multiple options could be selected.

Graph 1: Survey responses by group



Graph 1 shows the highest number of responses (2,042) were provided by someone who is a family member of a person with disability. Additionally, 1,391 responses were received by a person with disability who is an NDIS participant and an additional 847 responses were received by people with disability who are not NDIS participants.

We received 120 submissions from disability representative organisations, disability support providers, allied health bodies, cultural groups and other peak bodies. We heard strong feedback that the specific, intersectional and diverse needs of individual participants and different communities should be considered in the construction and implementation of any NDIS support lists. Many concerns were connected to the broader reform of the disability ecosystem.

Submissions highlighted the diversity of the disability community and provided feedback on the challenges faced by their community members based on disability, background and other factors. Individual and community needs and challenges were identified for:

- Aboriginal and Torres Strait Islander people with disability
- people with disability from culturally and linguistically diverse communities, refugee and migrant backgrounds and non-English speaking backgrounds
- people with disability with complex needs
- people with disability in regional and remote areas
- people with intellectual disability, psychosocial disability and 'invisible' disabilities
- women and girls with disability
- children and young people with disability

- people with disability leaving the criminal justice system, experiencing homelessness or living in closed systems
- the deaf community and Deafblind community.

Overarching themes

The sections below describe the overarching themes respondents broadly raised about the lists.

Consultation and communication

Many respondents said the timeframe for the consultation was inadequate and inconsistent with the principles of community engagement and co-design, and expressed concerns about the accessibility of the consultation process.

We also heard calls for a comprehensive co-design process to develop the permanent Category A rules relating to section 10 of the Act, which will replace the transitional rule.

An educative approach to new NDIS Support definitions

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.

What's changed: The instrument will include transitional arrangements to allow for stated supports that are excluded to continue to be claimed until a participant's next plan reassessment. It will also prevent a debt from being raised in certain circumstances where a person purchased a support that is not an NDIS support.

Respondents also called for the new section 10 instrument to be trialled, monitored, evaluated and reviewed to assess the impact of the lists and the changes to the Act. The NDIA has made a commitment to monitor and evaluate implementation of the transitional rule.

Preference for a principles-based approach

Many respondents opposed the concept of lists. Some respondents suggested supports should be grouped by subject matter, rather than spread across two lists.

Under current plans, a support must continue to meet the reasonable and necessary criteria and be an NDIS support. The list NDIS supports is not intended to be exhaustive and should be read in the context of the non-NDIS support list. Comprehensive guidance and communications will be provided to enable participants to understand what is not an NDIS support. The reasonable and necessary criteria continue to apply for current plans in considering whether a support can be funded by the NDIS.

Some respondents proposed retaining a general principles-based on the existing approach to defining NDIS supports. Respondents said NDIS supports must be flexible, individualised, person-centred and cost-effective. Some organisations highlighted the need for the approach to defining NDIS supports to align with the *Convention on the Rights of Persons with Disabilities (CRPD)*. In advocating for a principles-based approach, one organisation emphasised that any changes to NDIS supports should do no harm and promote inclusion in the community.

Some submissions recommended removing from the exclusion list all supports that could in specific circumstances be a reasonable and necessary support, and instead outlining the circumstances and evidence required for them to be funded.

Some concerns were focused on navigation and interpretation of the lists, especially for people with intellectual disability. One submission said the final version needed to be presented in a more accessible format, with clear examples to help participants understand the lists.

Respondents suggested the lists should be accompanied by guidance that presumes the broadest possible interpretation of inclusions, including where there is ambiguity on what constitutes an NDIS support.

What's changed: The NDIS support lists will show how the categories fit within the support categories included within NDIS plans.

The need for flexibility

We heard from a wide range of organisations about the need to engage with and account for the needs of people with disability from all backgrounds, including First Nations people with disability, people with disability from culturally and linguistically diverse communities, people with disability in regional and remote areas and people with complex needs. We also heard that the lists should work for all people with disability, including people with intellectual disability, psychosocial disability and 'invisible' disabilities.

Substitutions and exemptions

Many organisations said there should be a process for substitutions, exemptions or exceptions where items are reasonable and necessary to address a participant's disability support needs.

"There are numerous standard items which might not seem like disability supports at first glance but have the potential to fill an individual's support needs at a much lower cost. Such items include shower chairs, voice assisted 'smart home' items such as refrigerators, lighting, temperature controls, security devices, whitegoods, and Thermomixers. These items are often crucial disability supports when used creatively and allow people with disability to live independently in the community."

Respondents called for amendments to enable participants to purchase cost-effective daily living products and equipment in circumstances where they are safe and equally capable of meeting a participant's support needs.

"Smart phones and smart watches are ubiquitous pieces of technology that provide connection to communications, government services and underpin a range of other support, administrative and health related tasks that provide choice and control and could be lifesaving."

An amendment to the Bill made during the consultation process established a substitution process to allow some participants to access certain supports that are on the exclusion list but specific to their needs. This mechanism will formally be known as the 'replacement' process, and will be for supports that provide similar or better outcomes at the same or lower cost than identified NDIS supports.

Some respondents commented that this replacement amendment was an 'improvement', but emphasised that it added complexity and administrative burden to a system that is already difficult to navigate. A number of respondents expressed concern about the tightly targeted nature of the criteria for replacements.

What's changed: The NDIA is working with Disability Representative and Carer Organisations, the Independent Advisory Council and Participant Reference Groups to responsively design the replacement process.

Carve outs create confusion and lack of clarity

A high number of respondents told us that the proposed carve outs lack clarity and create confusion, saying it was sometimes difficult to work out what is, and is not, an NDIS support. For example, a representative organisation said that the category 'Disability-Related Health Supports' requires close reading in conjunction with the non-NDIS support category 'Mainstream – Health' which in turn includes carve outs, in addition to other items on the list of inclusions.

Some respondents were concerned the carve outs had not adequately considered various items, particularly surrounding psychosocial supports. Some people also said that 'carve out' was a technical term and it was unclear what it meant.

What's changed: We've removed carve outs, so there is now a consolidated list of items that are NDIS supports and those which are not NDIS supports. The new replacement process will enable participants to access some goods or services on the list of what is not an NDIS support.

'Specialist' and 'standard' products and equipment

Many respondents raised concerns about the tendency of the lists to prioritise specialised supports over mainstream equipment, noting that non-specialist products are frequently lower cost and recommended by allied health professionals and used for disability-specific purposes. Respondents said that in many contexts the distinction between specialist and general equipment is arbitrary, ambiguous or outdated.

What's changed: The focus on 'specialist' products has been replaced with assistive products that support a participant.

Integration with other service systems

Some submissions said defining what is or is not an NDIS support needed to be part of holistic discussion about the entire ecosystem of supports available to people with disability in Australia. Several respondents said the lists need to be coordinated with foundational and mainstream supports.

Organisations repeatedly raised concerns relating to gaps in the provision of inclusive and accessible mainstream services by multiple levels of government.

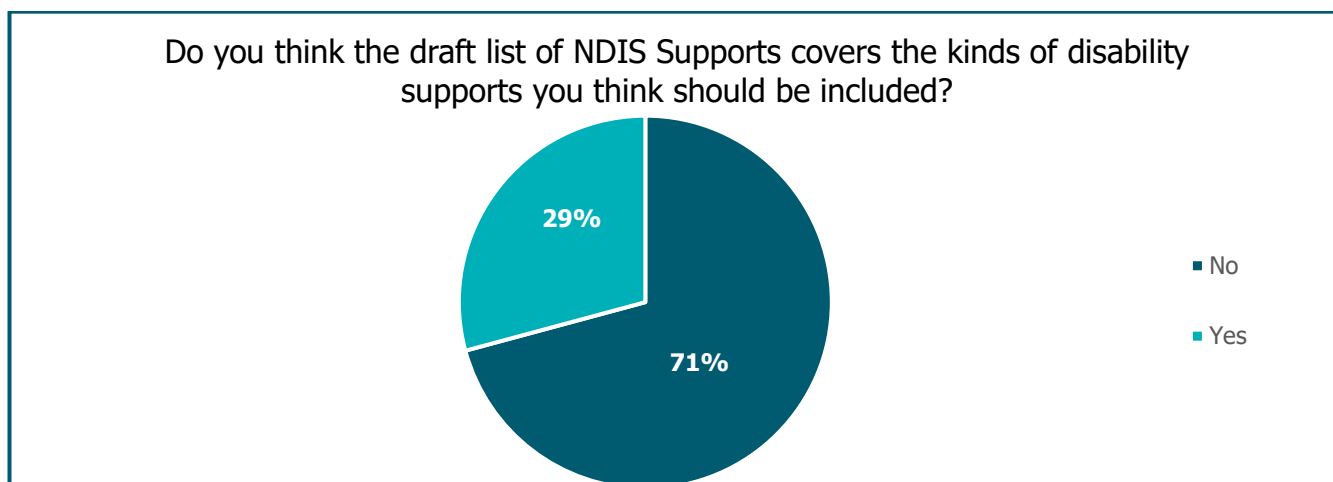
What's changed: The lists have been updated to better reflect existing interface agreements.

What we heard about the inclusion list

The inclusion list sets out proposed supports that are 'NDIS supports'. The inclusion list was structured by the Provider Registration Categories. Some respondents said it was unclear why these categories had been chosen, as they were not directly related to supports accessed by participants.

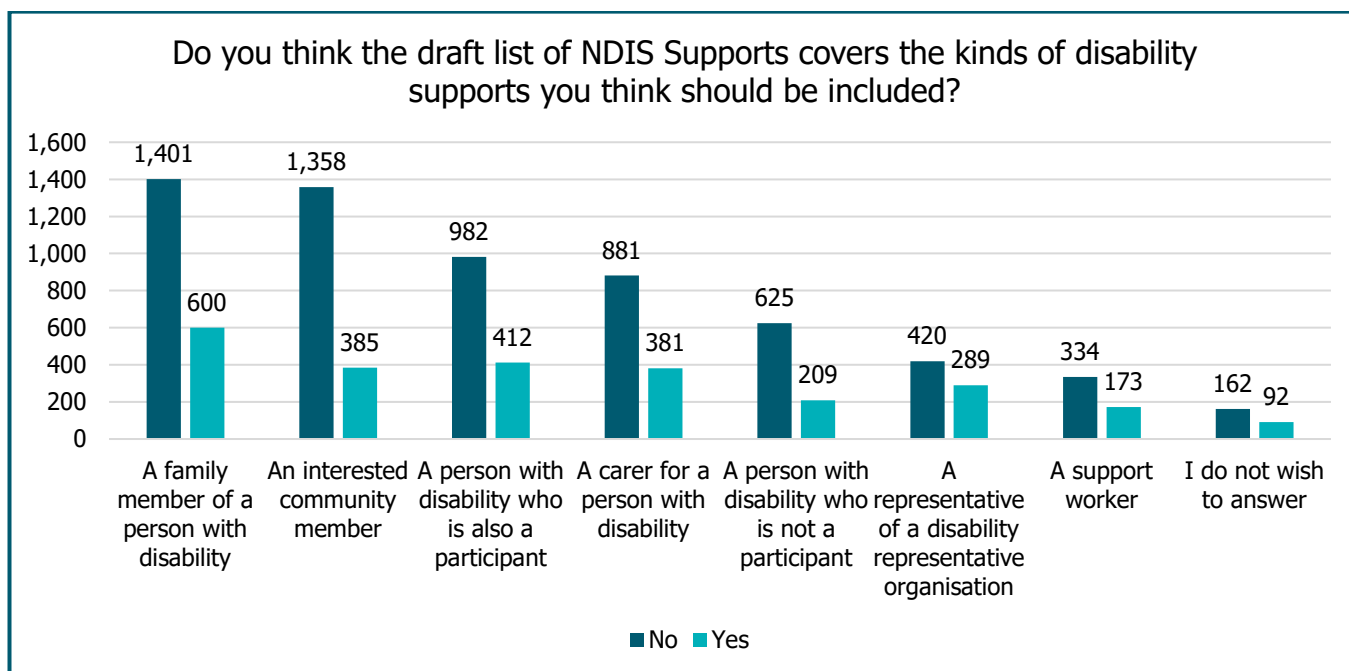
The online survey asked respondents the question "Do you think the draft list of NDIS Supports covers the kinds of disability supports you think should be included?"

Graph 2: Percentage of responses to question one of the online survey



Graph 3 shows that of the responses received, 71 per cent answered 'No', and 29 per cent answered 'Yes'.

Graph 3: Responses to question one of the online survey by group



Graph 4 shows the majority of responses across each group was 'No'. On average, around 70 per cent of respondents across all cohorts made suggestions for additional NDIS supports that could be incorporated into the inclusion list.

One organisation said that where provision of a NDIS support relies on a threshold being met, such as those relating to participants with complex or high support needs, greater clarity was required about how this threshold is defined and tested.

Supports that are 'NDIS supports'

We received a wide range of feedback about the lists of proposed NDIS supports.

What's changed: The list of supports that are 'NDIS supports' has been amended, taking into consideration the feedback provided through the public consultation. More examples of what can be funded under each category are in the list. Further guidance will be developed to assist participants to understand the scope of each item and provide flexibility.

1. Accommodation assistance or tenancy assistance

We heard that there is substantial overlap between this category and the exclusion of 'The provision of accommodation for people in need of housing assistance, including routine tenancy support' and 'Homelessness-specific services including homelessness outreach and emergency accommodation', and that additional clarification was required. For example, a support that assists a participant to undertake activities to obtain appropriate accommodation may also be a response to homelessness.

We heard that several supports should be explicitly included, such as short-term accommodation, Supported Independent Living (SIL) and Individualised Living Options (ILO). One respondent said:

"Excluding Individual Living Options (ILO) and similar arrangements which reimburse housemates for providing support is counterproductive. ILO arrangements are extremely cost-effective compared to other forms of in-home support, such as Supported Independent Living (SIL), reduce segregation and promote inclusion in the community."

2. Assistance animals

Submissions suggested rewording the description on the inclusion list to include 'an accredited animal specially trained to help a participant', to allow for greater flexibility and include animals which provide emotional, mental and behavioural supports but are not trained in specific tasks. We heard that this section should be consistent with the *Disability Discrimination Act 1992* (Cth), which says an assistance animal can be accredited by a prescribed animal training organisation or under a state or territory law that provides for accreditation.

Organisations identified contradictions between the inclusion list and exclusion list, and said it was not sufficiently clear whether:

- the inclusion of 'maintenance costs such as vet fees' would prevail over the exclusion of 'veterinarian costs' and 'pet grooming'
- the inclusion of 'special diets' would prevail over the exclusion of 'pet food'
- the purchase and training of a future assistance animal would be funded
- boarding would be funded.

3. Assistance in coordinating or managing life stages, transitions and supports

We heard that the description of this category was too limited in scope. One organisation said support coordination is not just about developing skills, but connecting participants with services, providing information on rights and assistance in understanding NDIS planning and implementation. Another said there should be no requirement for the participant to have 'reached a point of stability in regard to functional capacity'. One submission recommended including support for transitions from prison to community settings in this category.

What's changed: This now includes disability related supports through the transition process, including where an individual has been in custody or on remand, or was in detention in a mental health setting.

4. Assistance to access and maintain employment or higher education

Respondents noted the description did not relate to higher education, and that the 'carve outs' overlapped with the description of supports.

We heard that several additional inclusions should be added:

- assessment and provision of therapeutic support by an occupational therapist
- assistive technology related to employment or higher education
- supports to assist a participant to complete a placement or other short-term work-integrated learning activities
- supports funded for NDIS participants to access higher education, such as catheter care, personal care, and mealtime support.

Respondents said that the carve outs should be reconsidered. Some said 'learning and support needs of students that primarily relate to their education and training attainment' should not be excluded, given that frequent disagreement about which system is responsible for funding student supports affects educational outcomes for participants.

Others said supports that assist Australian Disability Enterprise employees to find, apply for and obtain employment in mainstream setting should not be excluded. Some respondents said supports for specific learning needs such as time management coaching should be included.

What's changed: This category has been amended to reduce overlap and place increased focus on support for higher education and training.

5. Assistance with daily life tasks in a group or shared living arrangement

Organisational and individual submissions said the description of short-term accommodation was overly restrictive and at risk of excluding necessary supports, including access for non-share accommodation participants to critical respite services. Another organisation suggested it is crucial to specify that 'short term accommodation can be provided independently from shared living environments to ensure that participants have access to the most appropriate and flexible support options'. One organisation said this support may 'push people into congregate care settings'.

We also heard that the focus on developing skills to live autonomously lacks clarity and provides inadequate certainty for participants about what is likely to be funded. Another organisation suggested clarifying whether the definition of a shared living environment includes families, and whether respite care for family members is included as a NDIS support.

One organisation proposed replacing 'to live as autonomously as possible' with 'achieve their goals' to support choice and flexibility.

6. Assistance with travel or transport arrangements

The list says participants may be transported to 'funded supports and other activities including school, educational facility, employment, or the community'. We heard that additional clarity was required on:

- whether 'activity-based transport' includes essential reasons such as health care, medical appointments, shopping and other services
- the provider travel component and how it relates to travel with the participant
- how this relates to the exclusion of community transport, and the impacts of this on accessing daily activities
- the provision of public transport travel training as a therapeutic support.

We also heard that travel and transport supports should be available to:

- people with reduced functional capacity, even if they do not meet the stated threshold, where this would help prevent potential injuries, emotional distress and fatigue from the use of public transport
- children with disability
- people in regional, rural, and remote areas where accessible and practical mainstream options do not exist.

7. Assistive equipment for recreation

The draft list includes specialist assistive equipment used in recreational and sporting activities. As noted above, we heard that 'specialist' equipment is too ambiguous and restrictive. Others suggested adding an additional category for 'productivity' supports outside of a workplace or educational context. We heard that services associated with assistive equipment, such as training and support, have not been adequately accounted for.

What's changed: This category has been amended to provide for assistive products used in sports or other recreational activities.

8. Assistive products for household tasks

As noted above, we heard that this category should not be restricted to 'specialist' products, and that services associated with assistive equipment, such as training and support, should be included.

9. Assistive products for personal care and safety

Similarly, respondents said this category should include assistive equipment and not be restricted to 'specialist' products. Organisations wanted the list to explicitly specify whether smart watches, personal safety alarms and other generic devices that support safety and personal care would be funded.

10. Specialist positive behaviour support

We heard that the description for this support should allow for:

- support to build the capacity, skills and knowledge of carers of children requiring positive behaviour support
- support to evaluate and revise plans as required
- informal supports for plan implementation.

11. Communication and information equipment

We heard that services associated with assistive equipment such as training and support have not been adequately accounted for. One organisation queried whether supports to learn how to use and navigate communication software would be included in 'Development of daily care and life skills' or 'Therapeutic supports'.

12. Community nursing care

Community Nursing Care provides certain types of care that can be provided for 'participants who have high care needs requiring a high level of skill'. Respondents queried how this threshold will be determined and applied, and noted that this ambiguity means a participant cannot be sure whether the conditions are met in their case. One submission requested clarity about the responsibility for funding the 'training of support workers to respond to the participant's complex needs' at school.

13. Prostheses and orthoses

We heard that this category should include:

- generic as well as specialist supports when required to meet a disability-related need
- ocular prostheses (in lieu of a coordinated national approach to funding these)
- associated services including assessment, prescription, manufacture, fit, review, report writing and education.

What's changed: This category now includes support for the assessment and specification (prescription) of a product, as well as services to train a participant in successful use where applicable.

14. Daily personal activities

This category includes supports to supervise or assist with personal daily living tasks to help a participant live as independently as possible, including assistance with eating and drinking, personal hygiene, moving and positioning, and in-kind personal care in schools.

15. Development of daily care and life skills

We were told that this item appears to duplicate the 'Assistance with Travel and Transport Arrangements' category.

16. Disability-related health supports

Some respondents noted the disability-related health supports did not reflect the full range of health issues that may arise from a person's impairment, with many 'grey areas' at the intersection of disability support and health care. This includes whether disability-related health supports typically provided at home would still be provided to participants who enter hospital settings. We heard that removing the 'regular' requirement would improve clarity.

Respondents would like to see a number of additional supports explicitly included:

- supports to assist with managing a medical condition that is the result of a disability or functional impairment
- supports that 'relate to' rather than 'result from' a participant's disability
- supports to manage medical conditions where an impairment restricts a participant's ability to manage it independently (for example, support to manage diabetes)
- respiratory specialist services and prescribed ventilation related to disability
- supports that are not fully covered by other programs, such as the Continence Aids Payment Scheme
- specialist support to explain a participant's needs and access health services, assist with accessing preventative and ongoing health services, and monitor health and care needs to inform decisions about accessing mainstream health services
- dietary supplements where they improve the health of people with disability and reduce the impact of their disability
- thickeners and nutritional supplements related to disability-related nutrition supports.

17. Early intervention supports for early childhood

We heard that early intervention is crucial in supporting children with disability to achieve their full potential, and that maximum flexibility to mix and match supports and to scale them up or down as needed is important for providing effective individualised support.

One organisation requested further clarification of what constitutes a developmental delay within this category, noting that children are often not able to access early intervention supports without a diagnosis.

We also heard that this category should include:

- assessment and provision of therapeutic support by an occupational therapist
- music therapy
- funding for Auslan interpreters and Deaf interpreters.

18. Exercise physiology and personal wellbeing activities

Respondents recommended that the description should specify activities to promote and encourage both physical and psychosocial wellbeing, which can reduce the impact of functional impairment for people with psychosocial disability. Other respondents noted that the definition did not cover the use of dieticians or dietetics to help support the health, wellbeing and management of disability. Respondents also said that the description of this category should be clarified to differentiate from excluded 'wellness' supports such as reflexology and general massage.

19. Group and centre based activities

We heard that Australian Disability Enterprises should be added as a setting where these activities may occur.

20. Hearing equipment

Several submissions queried the framing of this category around 'specialist' and 'general' hearing supports, and how this distinction would work in practice. We heard that items either expressly excluded or not on the funded supports list are considered fundamental and necessary supports for people who are Deaf or have hearing loss. These included hearing aids, smartwatches, visual home security systems, strobing fire alarms, and subscriptions to captioning services.

We heard that the requirement for a support to 'directly relate to a person's permanent impairment' is unclear and difficult to apply. For example, there is crossover between these supports and supports provided by Hearing Australia, which are excluded.

21. High intensity daily personal activities

We heard that the distinction between this category and 'Daily Personal Activities' needs to be clarified to avoid duplication. One organisation suggested clearly outlining the criteria for workers providing high intensity supports. Another organisation suggested replacing 'qualification' with 'training'.

22. Home modification design and construction

We heard that the carve out of any 'Design and subsequent changes or modifications to state or territory owned public housing' from this category should be reconsidered. While state and territory housing authorities may make some reasonable adjustments, these adjustments may not cover all necessary modifications required for many NDIS participants.

What's changed: 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.

23. Household tasks

We heard that the inclusion of 'house or yard maintenance' in this category conflicts with the exclusion of 'Standard home security and maintenance costs', and 'General home repairs, general renovations and maintenance' under 'Day-to-day living costs'. We also heard that the requirement for a participant to be unable to undertake the relevant task would restrict supports to participants for whom performing a task is possible but would cause significant fatigue, pain or difficulty.

24. Innovative community participation

We heard the description lacks clarity as the term 'other community participation registration groups' is not used elsewhere in the lists. One organisation sought clarification on the definition of 'innovative', and suggested developing an approach to providing supports for which the evidence base is emerging.

What's changed: The description of this category has been revised to clarify the scope of this support.

25. Interpreting and translation

Some organisations were particularly concerned about the provisions relating to interpreting and translation and strongly advocated for clearer and more inclusive provisions that go beyond funding only 'essential personal, social or community activities'.

We heard that the interpreting should be funded where mainstream providers fail to provide this. For example, we heard that employment should be included as an activity where interpretation and translation may be provided.

Submissions also suggested that this item explicitly include visual interpretation, such as live audio and live captioning.

26. Management of funding for supports

We heard that to ensure that participants receive consistent and effective management of their funding, a plan manager should be responsible for carrying out all the listed duties, rather than just one or more of them.

27. Participation in community, social and civic activities

We heard from a First Nations organisation that this support item should explicitly include support for participation in cultural life.

What's changed: The inclusion of specific reference to supports that provide participation in cultural activities for First Nations participants.

Respondents also flagged the importance of participants having access to all necessary supports specific to their disability to enable equal and unburdened participation in the community. Another organisation sought clarification on whether 'Assisting' could include products, for example where noise cancelling headphones or sensory supports are required to support a person with autism to access noisy, busy or otherwise overwhelming spaces. They described a lack of clarity of the types of sensory tools that may be funded.

28. Personal mobility equipment

Respondents said the term 'mobility' needs further definition, and that a narrow application focusing on short distances would be unsuitable, and that equipment that enables a person to move around in a variety of settings, including the home or in the community, should be incorporated.

One organisation suggested that hoists, fall prevention aids and mobility aids should be explicitly included. Another organisation said 'positioning equipment' should be incorporated.

29. Specialist disability accommodation

This category provides for specialist disability accommodation for a participant who requires specialist housing solutions.

30. Specialised driver training

Respondents said that broadening this category to include supports for people with intellectual disability, autism and other non-physical disabilities to obtain their drivers licence, would support their ability to engage in education, employment and community participation. Respondents also said that this category should include specialised assessments such as an Occupational Therapy Driver Assessment.

What's changed: The NDIS supports list now includes driver training with a specialised Vehicle Driving Instructor. This may include training on the use of adapted equipment or vehicle modifications.

31. Specialised hearing services

Respondents said this category had substantial crossover with the Hearing Equipment category, which specifically includes 'specialist hearing supports'. Respondents also queried why there was no equivalent category for specialised vision services.

We heard that the terms 'specialist hearing supports', 'general hearing services' and 'complex needs' should be defined to improve clarity.

32. Specialised supported employment

One respondent said the definition of 'supported employment' and the services included needed to be clearer. Another respondent said restricting the category to ADEs would limit participants, in contrast with previously flexibility to use these supports across a wider range of employment settings.

What's changed: This category has been broadened to provide supports for a participant's employment setting of choice.

33. Support coordination

Respondents said this definition does not capture current Level 1 or Level 2 Support Coordination or Psychosocial Recovery Coaching. Respondents also recommended 'intervention plans' should be developed alongside participants to ensure that it reflects their needs. We also heard there needs to be additional clarity about how this category differs from 'Assistance in Coordination or Managing Life Stages, Transitions and Supports'.

What's changed: This category has been changed to 'Support coordination' and includes supports for Level 1, 2 and 3 coordination centred around assisting participants to connect with informal community and funded supports.

34. Therapeutic supports

Respondents told us that the description of therapeutic supports was too narrow and insufficiently detailed. We heard that this category should include a wide range of supports, including:

"emotional recognition and regulation, theory of mind, protective behaviours, understanding friendships and relationships, balance and coordination, fine and gross motor skill development, sensory regulation, executive functioning, problem-solving, and decision-making."

One organisation said that the description for this category should include a reference to improved psychosocial functioning alongside other categories of functional improvement (language and communication, personal care and mobility).

Another organisation recommended broadening 'interpersonal interactions' to include a wider range of social skills including respectful relationships, reading non-verbal cues, and social rules, which can be essential to accessing community and employment, as well as personal wellbeing and mental health.

We also heard that the definition of therapeutic supports contradicted some of the exclusions, such as yoga therapy. This led respondents to question whether the 'inclusion' or 'exclusion' list took precedence. It was also suggested that the phrase 'daily, practical activities' be replaced with 'personal, social or community activities' to be consistent with other categories in the draft lists.

One organisation noted that this category is the only time the draft lists use the phrase 'evidence-based' and suggested that in many clinical contexts, evidence-based practice refers to an alignment of the best available research evidence, the clinical expertise of the provider, and the values and preferences of the participant. They argue that a therapeutic support cannot be said to be 'evidence-based' without considering the context in which it applies. Respondents also said it is difficult to apply this standard to rare conditions or contexts where there is a lack of formal evidence about effective therapies, especially given that people with disability have been historically excluded from many research studies.

Respondents described other supports they proposed should be in this category:

- supports that 'aim to maintain or manage a person's functional capacity'
- activity-based occupational therapy and physiotherapy for children with Autism Spectrum Disorder
- music therapy delivered by National Alliance of Self-Regulating Health Professions (NASRHP) registered music therapists
- software and hardware designed to support people with memory loss, neuro degenerative conditions or intellectual disability.

What's changed: The list includes evidence-based therapy to help participants to improve or maintain their functional capacity in areas such as language and communication, personal care, mobility and movement, interpersonal interactions, functioning (including psychosocial functioning) and community living.

35. Vehicle modifications

We heard that funding for the purchase of motor vehicles should be permitted in certain circumstances, such as where it is the most cost-effective option. One respondent queried whether repairs are included and argued that some safety restraints and the difference between the average cost of vehicle registration and heavy vehicle registration should be covered if required due to a person's disability.

36. Vision equipment

Several respondents disagreed with the broad exclusion of all prescription glasses. Respondents pointed to examples where funding of prescription glasses would be related to a person's disability, or where people with disability have a greater reliance on prescription glasses:

- some specialist prescriptions are not available under other government service delivery programs
- people with disability have higher rates of refractive error
- disproportionate effect the dual sensory impairment of Deafblind people

- vision impairment exacerbated by not wearing glasses can impact all areas of a child's development
- people with Acquired Brain Injury and children with dyslexia who may need prism glasses
- rapidly changing prescription as a result of a growing brain tumour
- children with significant disabilities and complex/challenging behaviours who have repeatedly broken their prescription glasses
- prism lenses are required
- lenses would significantly reduce reliance on paid support work.

We also heard that the limited scope in the description of vision equipment does not adequately account for the range of vision-related needs associated with disabilities such as autism or dementia, which can result in impairments such as difficulties with depth perception, contrast sensitivity, and visual memory. One submission noted:

“While autism itself doesn't inherently affect vision, many individuals with autism might experience sensitivities or difficulties that vision aids can help with.”

Respondents also queried why there was no category for specialised vision services.

Additional suggestions for the inclusion list

Some respondents identified particular items or supports that they suggested should be on the inclusion list.

Allied health supports

Some representative organisations said allied health supports should be explicitly included in the list to avoid confusion, including occupational therapy, speech pathology and osteopathy. One organisation said:

“The list of included [allied health] professions needs to be all-encompassing and comprehensive to prevent misinterpretation, exclusion of smaller professions like osteopathy and narrow interpretation by decision-makers. AHPA and the Federal Chief Allied Health Officer (CAHO) should be consulted directly on the list to ensure it is not exclusionary.”

The role of carers

A number of respondents said the inclusion lists did not cover reasonable and necessary supports for carers, and that these should be incorporated so that carers can access essential supports otherwise unavailable. For some, this included supports for carers to enhance their physical and emotional wellbeing, social participation, and mental health. Other submissions suggested the categories of ‘Assistance in coordinating or managing life stages, transitions and supports’, ‘Assistance with daily life tasks in a group or shared living arrangement’, ‘Daily personal activities’, ‘Development of daily care and life skills’, and ‘Group and centre based activities’ should be expanded to apply to carers.

Respite

Submissions called for specific reference to respite and supports for carers to ensure relevant supports are included as required. One organisation conducted an online survey to garner community responses during the consultation period, sharing:

“Parents emphasised the critical need for support for respite. Many families indicated that they are struggling to manage the day-to-day demands of caring for a child with a disability. The inability to access respite services would exacerbate this burden and disable the family unit from being able to support the child to realise their potential.”

Maintenance of assistive equipment

We heard that the list of NDIS supports does not explicitly include maintenance of assistive equipment, such as wheelchairs:

“Wheelchairs breakdown and cushions might only last 12 months before deteriorating. People who are not users of assistive technology often may not understand what is required. The tyres, the battery, back rests, and cushions (on a wheelchair) wear out and are expensive to replace. It is almost impossible to buy assistive technology without being on a funding scheme due to the expense involved. It is very difficult to buy a customised wheelchair without having funding through a support scheme as often providers won’t talk to consumers they talk to the Occupational Therapist”.

What’s changed: Several categories now explicitly include the maintenance of assistive equipment, as well as services to assess and prescribe, deliver, adjust and train a participant in the use of an assistive product where applicable.

Psychosocial recovery supports

Some respondents said that psychosocial recovery supports should be explicitly included in the list of NDIS supports. Many respondents suggested that they should be included as a separate category under ‘psychosocial recovery supports’ to be consistent with the Applied Principles and Tables of Supports (APTOS) and the NDIA’s *NDIS Psychosocial Disability Recovery-Oriented Framework*.

One organisation said that some non-clinical psychosocial recovery support services currently funded are absent from the list but should continue to be funded to help people with mental ill-health in their personal recovery. These supports include mental health support workers, peer workers, recovery coaching, capacity building, family therapy, art therapy and music therapy. Another organisation said psychosocial recovery supports should use terms such as ‘coaching’, ‘prompting’ and ‘motivating’ in addition to ‘assisting’ and ‘supporting’ to reflect the role of psychosocial recovery work.

Some respondents said the list should clarify that mental health supports can be NDIS supports when:

- there is a close nexus between the disability and the mental health support need
- mainstream mental health services are unsuitable because of the participant’s disability
- disability-focused mental health support is required due to the intersection of the participant’s multiple needs or impairments.

We also heard the description should ensure that 'ongoing' supports include episodic supports to reflect the nature of psychosocial disability and the fluctuation of need over time.

Another organisation said people with psychosocial disability often require support beyond the ten sessions subsidised by Medicare through a Mental Health Care Plan. They told us the exclusion of these services will increase pressure on public mental health services and crisis care services.

What's changed: Ongoing psychosocial recovery supports have been incorporated into Disability-Related Health Supports, and supports for participants with psychosocial support needs are referenced in Development Of Daily Care And Life Skills, High Intensity Daily Personal Activities, and Therapeutic Supports.

Support for decision-making

The draft lists do not reference supported decision-making. Some respondents said that a new category of 'Support for Decision-Making' should be recognised as a 'NDIS Support', to be consistent with the NDIS Supported Decision Making Policy.

What we heard about the exclusion list

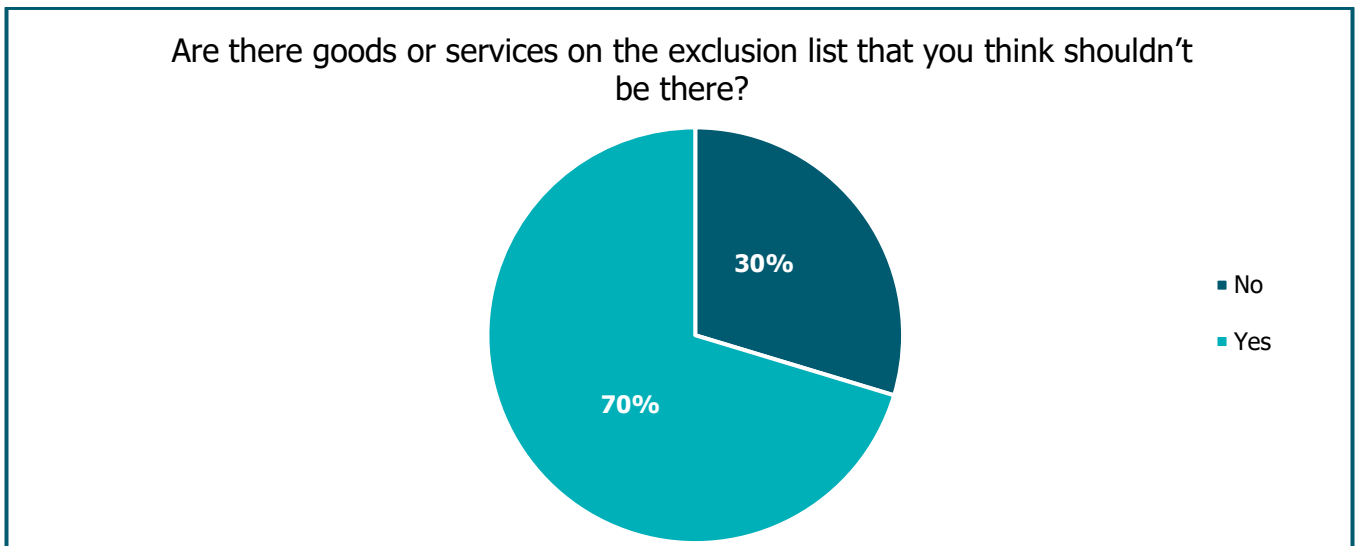
The exclusion list set out proposed supports that are not 'NDIS supports':

- Day-to-day living costs
- Not value for money/not effective or beneficial
- Unlawful
- Income replacement.

The exclusion list also included supports that are not 'NDIS supports' on the basis that they are the responsibility of other (mainstream) service systems. These are discussed in detail in the following section.

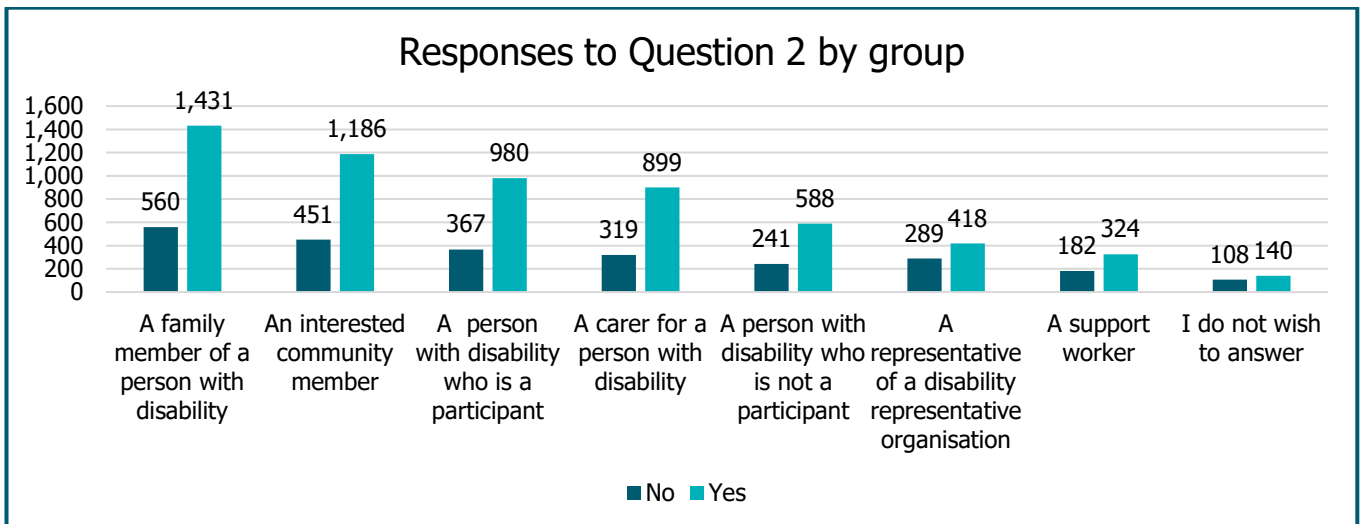
The online survey asked respondents the question "Are there goods or services on the exclusion list that you think shouldn't be there?"

Graph 4: Percentage of responses to question two of the online survey.



Of the responses received, 70 per cent answered 'Yes', with 30 per cent answering 'No'.

Graph 5: Responses to question two of the online survey by group



Graph 5 shows the majority of responses across each group was 'Yes'. The groups with the highest percentage of affirmative responses were:

- A carer for a person with disability – 74 per cent
- A person with disability who is also a participant – 73 per cent
- An interested community member – 72 per cent
- A person with disability who is not a participant – 71 per cent
- A family member of a person with disability – 71 per cent.

What's changed: The list of supports that are not 'NDIS supports' has been amended, taking into consideration the feedback provided through the public consultation. Some descriptions have been amended to improve clarity and better reflect existing arrangements. Some categories have been reframed or restructured to improve readability.

Day-to-day living costs

1. Day-to-day living costs – accommodation and household related supports

Rent and rental bonds

Some organisations said rent or bond should be subsidised by the NDIS in some circumstances, including for SIL and ILO arrangements. Some respondents shared client stories where a participant pays rent in the generic house market and their housemate receives a rent subsidy due to the housemate's role in helping with daily living tasks:

“A person living in a two-bedroom apartment who needs to have a support person living with them should be able to cover the cost of the second bedroom. The alternative will be more SDAs and SIL homes, and no one wants them.”

Standard home security and maintenance costs

We heard that this exclusion may not account for the specific needs of people with psychosocial disabilities or autism spectrum disorders, for whom additional security may be a reasonable and necessary part of their disability support needs, including behavioural plans. It also does not provide for people with limited mobility, the Deaf community, those who are vision impaired, and the fact that these items can support the movement of support workers coming in and out of a participant's home.

“I am blind. I need to know who is in my yard. I cannot see them. I can however have a monitored camera that allows me to question who is there and keep myself safe”.

General furniture removal and services, unwanted furniture pick up

Organisations told us that general furniture and rubbish removal was an important support for NDIS participants, especially those with hoarding issues. These services can help prevent health hazards,

the exacerbation of disability-related challenges, eviction and legal issues, minimise the impact on the community and environment, and be less expensive than using a support worker to complete the task. One organisation noted that the provision of moving services would support a participant required to move by the Agency.

What's changed: 'General furniture removal and services, unwanted furniture pick up' has been removed from the list of non-NDIS supports.

General home repairs, general renovations and maintenance

Respondents noted contradictions in this section with the inclusion of 'house or yard maintenance' under 'Household tasks'. Submissions referred to potential damage caused by a participant's complex behaviours of concern that relate to their disability, higher insurance premiums of families of people with disability who also have violent and aggressive behaviour, and the impact on rental and housing insecurity.

Pool heating, bills and electricity generators

Respondents noted that supports such as pool heating could enable participants to engage in aquatic physiotherapy at home. Some respondents also said the NDIS should fund electricity bills, home batteries or backup-generators where participants face increased costs directly related to their disability and where no mainstream supports exist.

Standard household items

We heard that general household items may be the most reasonable and necessary option to meet a participant's support needs, including:

- white goods and other household items which are more economical than 'specialised' or 'disability' options; facilitate independence and improve safety; and reduce reliance on paid support
- items that address specific disability needs such as storage of medications and food blenders to allow for swallowing difficulties, blended tube feeds or other dietary needs
- sensory floor rugs and beanbags to support regulation and avoid escalation into behaviours of concern
- additional costs to upgrade standard household items that include accessibility features to decrease the physical and cognitive requirements of household tasks.

Some respondents said that thin markets in regional and remote areas may mean support for meal preparation may be limited. One representative organisation explained:

"This [flexibility] is best exemplified by a member who explained their strong preference to prepare their own meals rather than having a support worker prepare meals. They are currently able to do this through purchasing kitchen appliances such as a Thermomix or a Slow Cooker and pre-cut meat and vegetables. This solution not only offers improved choice and control but also greater value for money."

What's changed: Standard commercially available household items will be available through the replacement process for some participants.

2. Day-to-day living costs – finance and payments

This category covers financial services, items and payments that are not considered to be NDIS supports. Minimal feedback was received on this category.

3. Day-to-day living costs – food and groceries

Some respondents said restaurant meal delivery might be required to support a person with disability under some circumstances and should be considered on a case-by-case basis. One organisation said fast-food or takeaway services may be necessary alternatives when planned meal deliveries fail or when other factors make food preparation impossible.

What's changed: Modified foods (including for percutaneous endoscopic gastrostomy feeding) is now included in the list of NDIS Supports. The description of food services has been changed to allow for meal preparation and delivery in certain circumstances.

4. Day-to-day living costs – lifestyle

Internet services, land line phone, mobile phones, mobile phone accessories, and mobile phone plans and smart phones

Many respondents opposed the broad exclusion of the listed 'mainstream' technologies and specific items in the list. They said items should be included where they:

- increase independence and support decision-making
- support and enable communication and accessibility, and interactions with administrative, government and health services
- improve safety, such as through seizure alerting and monitoring
- are cost effective.

Respondents also noted that people with disability may require higher than average access to services, such as internet usage for Deaf people who use video conferencing to communicate.

What's changed: Specific assistive technology, including smart watches, tablets and smartphones will be available through the replacement process for some participants. Internet services, phone plans and data remain excluded.

Funeral costs

Some respondents said that funding should be available to support participants to attend a funeral, particularly for First Nations people where such attendance is essential for cultural reasons.

Musical instruments and music production

One organisation queried whether 'musical instruments' includes specialist adapted musical instruments for people with disability. Another said musical instruments and music technology should be funded if prescribed by a registered music therapist as part of their therapeutic supports.

Menstrual products

A large number of respondents raised concerns that menstrual products were excluded items, noting that they enable choice, control and personal dignity. One organisation noted these products are also used to manage continence issues and that there are many reasons why people with some disabilities might require them in greater quantities than the general population.

Organisations noted that some participants rely on adapted menstrual products for independence and connection with the community:

"Our daughter uses period underwear due to her disability she needs a high number of these each cycle as she is unable to manage her periods without them. As she grows we need to buy the next size up to ensure she is able to still attend school & access her community while she is on her period. Otherwise she would be housebound for one week every month, further isolating her from her community."

What's changed: The lists now include modified or adaptive products to manage menstruation as an NDIS support.

General conference fees

Some respondents said this exclusion should be amended to support attendance at disability-specific conferences, and queried whether it would apply to disability-related training/conferences for peer/family/carer training for people with disability.

Sex work

Respondents said that the blanket exclusion of sex work does not take account of the many reasons people with disability may seek support from a sex worker. Following amendments to subsection 10(9)(a) of the Act, 'sexual services' are now excluded from being NDIS supports. The NDIA has committed to working with disability representative and carer organisations, advocacy organisations and the disability community to develop guidance to support participants to understand what is excluded.

Sex toys

Some respondents said sex toys can enable participants dignity and choice and support healthy sexual function. One respondent said sex toys should be permitted as part of a Positive Behaviour Support Plan related to an assessment of behaviours of concern.

What's changed: Sex toys have been removed from the list of non-NDIS supports. 'Sexual services' are now excluded as an NDIS Support under the legislation.

Sensory items including trampolines and general play equipment

Organisations noted that the exclusion of trampolines and general play equipment may create confusion with the carve out of 'play equipment where it is specialist sensory equipment', with some seeking definitions for these terms. One respondent noted these supports may be more cost-effective compared to therapies or support workers.

Some organisations said cost effective general play equipment should be included where it supports regulation and capacity to participate in day-to-day tasks and learning. This may be, for example, though supporting sensory regulation and building strength, balance and co-ordination.

What's changed: Trampolines have been removed from the list of non-NDIS supports.

Membership of a recreational club

We heard that gym memberships are an appropriate adjunct to therapy support but can be beyond what participants can reasonably afford. Gym memberships can enable people with disability to develop their capability and support their physical and mental wellbeing.

Another submission argued that membership fees of specialised disability sporting organisations, such as powerchair football, should be carved out from the exclusions related to membership of recreational clubs. Although individual line item billing is possible for these activities, it is an onerous administrative burden for volunteer staff at these types of charitable clubs.

5. Day-to-day living costs – clothing and beauty

We heard that makeup, cosmetic treatments and wigs can be an appropriate disability-related support, for example for people with significant burns. We also heard that accessible and adaptive clothing should be included:

“Accessible clothing for instance pants that open and close easily for catheter use, shirts that have magnetic opening etc are essential for my life...This kind of clothing needs to be included.”

Many respondents noted the benefits and cost efficiencies of accessing beauty services rather than specialist disability supports. Several organisations provided case studies where their clients were unable to wash their own hair, or it was not safe to do so for example, for a person with a tracheotomy and a hairdresser provided this service regularly and less expensively than a support

worker. Others referred to clients who use beauty services to cut their nails regularly at a lesser cost than a support worker.

What's changed: The NDIS supports list now includes under Daily Personal Activities: hair washing and drying, fingernail and toenail cutting and cleaning to maintain personal hygiene.

6. Day-to-day living costs – travel and transport

We heard from some organisations that travel related supports should not be on the exclusions list. One noted that many exclusions listed in this category are currently provided for in short-term accommodation and respite supports:

“It is not uncommon for participants seeking to source cost-effective STA/respite to “build your own (BYO)” STA package by sourcing support work, accommodation, travel, food etc as separate components rather than going through a single service provider to aggregate them.”

One respondent submitted that support workers should be supported to accompany a participant on their travel, and another that Auslan interpreters are essential for ensuring that Deaf/Hard of hearing individuals have equitable access to travel safely and independently.

7. Day-to-day living costs – pets

This category identifies that pets and companion animals that are not eligible assistance animals are not considered NDIS supports, as well as associated costs, such as food costs, veterinarian costs and pet insurance. Most feedback related to these items focused on the distinction between assistance animals and pets or companion animals, as well as associated costs.

8. Day-to-day living costs – reproductive health and family related

This category identifies that surrogacy and fertility treatments are not NDIS supports. Minimal feedback was received on these proposed exclusions.

Not value for money/not effective or beneficial

This category was further broken down into:

- Alternative and complementary therapies
- Wellness and coaching related
- Energy and Healing Practices related
- Beauty Services related

Respondents raised concerns across several categories, querying how certain therapies were found to not be value for money, beneficial or effective. Organisations said that the exclusion of therapies that do not fit within traditional Western frameworks and that do not have evidence bases does not support the needs and practices of culturally and linguistically diverse people with disability.

9. Not evidence-based – alternative and complementary therapies

Many respondents focused on the benefits of excluded alternative and complementary therapies and raised concerns that their evidence base had been overlooked. Organisations challenged the exclusion of, and provided evidence bases for wilderness therapy and yoga therapy.

10. Not evidence-based – wellness and coaching

Respondents flagged that some of the excluded items on this list could provide benefits for participants and have an evidence base, especially when provided by accredited professionals. One organisation wrote that it may be appropriate for health professionals to recommend these items as therapeutic supports. Submissions covered benefits of:

- Massage
- Life/wellness/career coach/cultural coach
- Hypnotherapy
- Neurofeedback
- Gaming therapy
- Somatic therapy.

What's changed: Massage provided by an allied health professional for disability related purposes is no longer excluded as an NDIS support.

11. Not evidence based – energy and healing practices

Respondents raised concerns that a blanket exclusion on the practices in this section represents narrow consideration for the unique circumstances of individual participants and the needs of those from culturally diverse backgrounds.

What we heard about the mainstream exclusion list

Many respondents raised concerns about the exclusion of mainstream services, with the risk that participants can fall through the cracks if no mainstream service is available to them. A key recommendation was that any mainstream exclusion list should be flexible to ensure that participants requiring supports from both systems do not fall through service gaps.

While barriers to accessing mainstream services are acknowledged, the transitional section 10 instrument is intended to reflect existing intergovernmental agreements between NDIS and other Government funded service systems. There is further important work to do in reflecting on this feedback to inform the design of the longer-term Category A section 10 rule to be agreed with states and territories.

12. Health

Some respondents noted the grey areas at the intersection between 'Disability-related health supports' and mainstream health care.

What's changed: The descriptions of some non-NDIS support items have been amended to improve clarity about the responsibilities for supports and services between the NDIS and health systems.

Diagnostic assessment and screening

We heard that assessments and screening related specifically to disability will assist with the provision of services and supports to assist the participant in improving their functioning, diagnostic assessments and screening services. Other organisations noted the high costs of diagnostic assessments and screening for co-occurring conditions and said out of pocket costs, after any Medicare Benefit Schedule rebates, should be funded by the NDIS.

Hospital in the home services

We heard that hospital in the home services should be better defined to ensure that people with high support needs are not denied care on the basis that their needs are too intensive.

Palliative care

Respondents had queries about how this exclusion operates alongside NDIS-funded therapeutic supports. Some respondents recommended replacing 'palliative care' with 'specialist clinical palliative care' to emphasise the fact that people with disability who have a life limiting illness are able to receive support to meet their functional support needs through the NDIS at the same time as receiving specialist clinical services.

What's changed: The lists clarify that NDIS supports provided to a participant will continue to be provided at the same time as palliative care.

Other supports

Submissions argued several other supports should be considered NDIS supports in certain circumstances, including:

- Health supports required for a medical condition that is a direct result of a participant's disability (for example, support for dementia where the dementia is likely to be a result of Down Syndrome)
- Supports to assist with management of a medical condition, where a functional impairment impacts a person's ability to manage that medical condition (for example, diabetic management)
- Ongoing functional capacity building and maintenance supports for which the participant has gained access to the Scheme (for example, chronic health and psychiatric conditions)
- Nursing care as a backup support in crisis situations
- Supports that would increase functional capacity and reduce the cost of supports in the long term

- Equipment or assistive technology that address disability-related support needs that are not available through the mainstream health system
- Clinical services delivered through public and private hospitals for people with brain injury in rural and remote areas
- Therapies provided after a recent medical or surgical event for people with episodic and progressive conditions
- Sleep consultants and non-clinical support for chronic pain for people with psychosocial disability, autism and people with other disabilities
- Specialised eating disorder services for anorexia and Avoidant Restrictive Food Intake Disorder which commonly co-occurs with autism

Carve outs

Organisations noted that people with disability may have chronic health co-morbidities and experience frequent hospitalisations, and it can be problematic to distinguish between what is disability-related and what is health-related.

13. Mental health

Respondents wrote that the exclusion of mainstream mental health supports is likely to exacerbate existing misperceptions regarding the interface between psychosocial supports and mental health systems. Respondents noted that people may have a range of mental health-related support needs which result from the participant's disability, with an organisation submitting:

“The exclusion of mainstream mental health supports does not reflect the reality of participants’ experience, the impact of mental health conditions on functional capacity, or the nuanced nature of mental health as a disability or experienced as a consequence of a disability. Attempts to separate the mental health of participants from their disability are in conflict with the Scheme’s purpose and aims.”

Respondents noted that this category should be flexible enough to support participants with specific support needs that may be episodic or ad hoc in nature, such as supports to manage the exacerbation of a participant's psychosocial disability following a critical event such as a physical injury.

Treatment for drug and alcohol dependency, eating disorders, gambling and other addictions

Organisations flagged that these exclusions are problematic because of their interconnection with disability. We heard that these are frequently maladaptive coping mechanisms for issues related to disability, and frequently the subject of other disability-related supports such as Positive Behaviour Support.

Acute, subacute emergency and outpatient clinical services delivered through public and private hospital mental health services

Respondents were concerned about the blanket exclusion of services delivered through hospitals and health settings.

Supports related to mental health that are clinical in nature, including acute, ambulatory and continuing care, rehabilitation

Respondents said that 'clinical in nature' does not provide adequate clarity about the difference between mental health supports and treatment. It was noted that the language of 'clinical' services can mean a service delivered by a clinician, or a service delivered in a clinic environment, and it is unclear what is meant in this exclusion. We heard that the lists should clarify that support from psychologists, occupational therapists and speech therapists should be included as NDIS psychosocial recovery supports, regardless of whether they are delivered in a clinical setting.

Respondents also said that the exclusion of supports relating to 'rehabilitation' is problematic as this term has a wide and well-accepted meaning within the disability context. Another submission said some allied health services to improve psychosocial functioning for people with psychosocial disability could be misinterpreted to fall under the exclusion of 'supports related to mental health that are clinical in nature'.

Any residential care where the primary purpose is for inpatient treatment or clinical rehabilitation, or where the services model primarily employs clinical staff

Respondents were concerned that this exclusion would mean that people would be barred from accessing clinically trained staff in residential settings. One submission suggested removing 'or where the service model primarily employs clinical staff' from the final dot point in the description, as this confuses the intent of the description which is to define inpatient treatment or rehabilitation as not being an NDIS support.

What's changed: 'Where the service model primarily employs clinical staff' has been removed from the description of this non-NDIS support.

14. Child protection and family support

Many respondents said these types of support are essential for health family functioning and relationships and should be considered NDIS supports in certain circumstances, including:

- family therapy, which is currently funded for families and carers of people with psychosocial support needs
- where these supports are included in behavioural plans
- marriage and relationship counselling, where related to issues in a relationship due to one or both people's disabilities
- disability-specific family, parenting and information programs and supports to help ensure carers and their family can support people with disability and function as a family unit and that people with disability have accessible services
- parenting programs, counselling, family therapy and other supports for families at risk of child protection intervention and support for adjustment to a new impairment
- supports for children with disability living in out-of-home care situations and their carers
- sibling supports, as significant family relationships
- out of school hours care and vacation care for children with complex needs.

15. Early childhood development

We heard that this category requires sufficiently flexibility so that decisions can be made on a case-by-case basis as to whether fees are disability-related or relate to general childcare and clarification regarding the scope of this exclusion to ensure early intervention support groups are not captured. We also heard that the description 'meeting the early childhood education and care needs of a child' is too broad and would inadvertently exclude supports that could be legitimately required under early intervention supports, such as dietitians, Auslan interpreters, or speech pathology.

What's changed: Some supports under this category has been amended to improve clarity about what is a non-NDIS support.

16. School education

We heard that schools are often under-resourced to provide these excluded items and the process to obtain additional funding for schools can be lengthy.

We heard that the following supports should be considered NDIS supports:

- personal care support for children if, as a result of disability, the child's care needs are substantially greater than those of other children of a similar age (*National Disability Insurance Scheme (Supports for Participants) Rules 2013 s 3.4(a)*)
- school uniforms where a child's disability necessitates a higher than average set of uniforms
- assistive technology in the home environment to support education activities (for example homework)
- allied health and behaviour supports that are provided in school
- out of school hours care and vacation care for children who need specialist-trained support
- capacity building and behavioural supports that are most suited to the school environment
- school refusal programs targeted at the needs of students with disability and re-engagement support.

Clarification was sought whether sensory tools needed by some participants to access school are covered.

What's changed: Some supports under this category have been amended to improve clarity about what is a non-NDIS support.

17. Higher education and vocational education and training

Respondents requested greater clarity regarding mutual understandings of funding obligations between universities, governments and other stakeholders, having heard from community members who have been unable to access some of the excluded supports, including from their tertiary education provider or employer. Organisations said the exclusion of supports to access learning prevents deaf participants from accessing and navigating the higher education environment.

We heard that the item 'transport between education or training activities' is inconsistent with the included category 'Assistance With Travel/Transport Arrangements'. Transport supports to assist a participant to attend training and higher education should be an NDIS support when it is required as a result of the participant's functional impairment.

What's changed: Some supports under this category have been amended to improve clarity about what is a non-NDIS support. 'Transport between education or training activities' is no longer on the exclusion list.

18. Employment

Respondents submitted that work-specific aids, adjustments and supports are essential to many people with disability in accessing the workplace and queried who is obliged to fund these supports. One organisation said the exclusion of certain employment supports suggested that those supports will be provided by Disability Employment Services or by non-NDIS, non-Commonwealth systems.

We heard that flexibility is required to meet the needs of individual participants, such as building modifications that are not affordable for employers in remote communities and which enable workforce participation. Another respondent said that employment supports should be provided to supported employees working in an Australian Disability Enterprise.

19. Housing and community infrastructure

Many respondents raised concerns about the housing and NDIS interface, especially the division of responsibilities to provide short-term accommodation (STA), medium-term accommodation (MTA), crisis accommodation and homelessness services. Organisations were concerned that housing is often unaffordable, inaccessible and insecure for people with disability. Respondents submitted that STA and MTA be included. They also noted the serious gap in funding for crisis housing, including for people with disability leaving domestic and family violence and people leaving prison.

We heard that there is substantial overlap between the exclusions in this category and the inclusions in 'Accommodation/tenancy assistance'. For example, where a support that assists a participant to undertake activities to obtain appropriate accommodation is also a response to homelessness.

What's changed: Some supports under this category have been amended to improve clarity about what is a non-NDIS support, and better reflect existing responsibilities across the NDIS and mainstream systems.

20. Transport

Respondents noted the importance of community transport in helping promote social inclusion and independence. This is especially important for people in rural and remote areas who have limited options for transport.

Respondents proposed that the following supports should be included:

- modifications to public transport and taxis in rural and remote communities where transport is limited and not available
- purchase of a vehicle where there is no other cost-effective alternative and the vehicle is necessary to facilitate their social and economic participation
- provision for participants with non-physical disability to access specialised driver training.

21. Justice

Respondents raised concerns about limited NDIS access for people in custodial and mental health settings, noting that the civil and criminal justice systems often do not provide adequate or reasonable adjustments for people with disability, who are at higher risk of abuse and neglect in custodial and other closed settings.

“Regarding justice supports the lack of carve outs that support people with disabilities who are incarcerated to access suitable adjusted prevention of reoffending supports that take into account their disability requirements is highly concerning.”

We heard that the following should be carved out from the exclusions:

- support for people to access the NDIS when entering the justice and immediately upon release
- short- or medium-term accommodation for people leaving justice settings
- supports to meet the access and daily living needs of participants who are in custody on remand, such as capacity
- supports to prepare for court appearances and advocacy
- supports for participants on Supervised Treatment and Non-Custodial Supervision Orders.

“...the gaps created by the Lists will continue to enable and facilitate the cycling of people with cognitive impairment through the justice system, and ensure the State is the accommodation provider of last resort...”

Respondents highlighted issues with scope and definitions in this section. One respondent recommended amending ‘Supervision and monitoring of offenders’ as it is too broad, and it is unclear if it is intended only to apply to people in custody. Another commented that its exclusion could result in people with disability remaining in custodial settings longer than necessary. We also heard that ‘secure accommodation’ should be defined.

22. Aged care

Respondents called for more clarity on the process for participants who turn 65 and whether they will be able to continue accessing NDIS supports as they get older. They also raised concerns regarding participants who choose to live in residential aged care and purchase supports from an aged care provider as NDIS supports, particularly for those in regional and remote areas.

Respondents said that 'aged care services' should be amended to specifically refer to residential care or home care provided in accordance with the *Aged Care Act 1997* (Cth). An organisation suggested the need for a carve out for people with psychosocial disability living in residential aged care.

What's changed: The NDIS Supports list now includes daily living tasks for participants living in residential aged care facilities in certain circumstances.

23. Unlawful goods and services

Responses raised concerns that reference to Australian Standards would be overly restrictive however reference to 'mandated' would be necessary to comply with work health and safety and other laws. One organisation said it would preclude access to widely available equipment and technologies 'where standards are not applicable, have already been met by International Standards, or have been approved for supply via the alternative Therapeutic Goods Administration pathways'. If that is the case, they may not be excluded.

Another submission recommended that the section on 'restrictive practices' be updated to clearly define the exclusion of restrictive practices that are not regulated restrictive practices under the *National Disability Insurance Scheme (Restrictive Practices and Behaviour Support) Rules 2018*. That requirement exists separately and can be explained in guidance.

24. Income replacement

Similar to under day-to-day livings costs, respondents were concerned that the exclusion of rent subsidy precludes participants from receiving funding for SIL, ILO and similar living arrangements. Rental payments and housing subsidies for example, rental bonds, mortgage relief and assistance with buying a home will be excluded.

Appendices

Appendix A: What's changed

Category	Change
Transitional arrangements	The instrument will include transitional arrangements to allow for stated supports that are excluded to continue to be claimed until a participant's next plan reassessment. It will also prevent a debt from being raised in circumstances where a participant purchased an item under \$1,500 without being advised on at least 2 occasions about this being excluded.
Support categories and interpretation	The support categories are in language and terms which reflect supports included in plans, pricing arrangements, and how they are claimed.
Exceptions and substitutions	A replacement process has been developed to support participants to access certain support household items and assistive technology that may better meet a participant's support needs.
Carve outs	We've removed carve outs, so there is now a consolidated list of items that are NDIS supports and those which are not NDIS supports. The new replacement process will enable participants to access some goods or services on the list of what is not an NDIS support.
'Specialist' and 'standard' supports	The focus on 'specialist' products has been replaced with assistive products that support a participant.
Integration with other service systems	The lists have been updated to better reflect existing intergovernmental agreements and service system responsibility.
Supports that are 'NDIS Supports'	The list of supports that are 'NDIS supports' has been amended, taking into consideration the feedback provided through the public consultation to enable greater choice and control. More examples of what can be funded under each category are in the list. Further guidance will be developed to assist participants to understand the scope of each item and provide flexibility.
Assistance in coordinating or managing life stages, transitions and supports	This now includes disability related supports through the transition process, including where an individual has been in custody or on remand, or was in detention in a mental health setting.
Assistance to access and maintain employment or higher education	This category has been amended to reduce overlap and place increased focus on support for higher education and training.
Assistive equipment for recreation	This category has been amended to provide for assistive products used in sports or other recreational activities.

Customised prosthetics (including orthotics)	This category now includes support for the assessment and specification (prescription) of a product, as well as services to train a participant in successful use where applicable.
Home modification	Internal and external building modifications to remedy damage arising exclusively from disability-related behaviours or use of NDIS funded assistive technology or equipment are now included in the supports list.
Innovative community participation	The description of this category has been revised to clarify the scope of this support.
Participation in community, social and civic activities	The inclusion of specific reference to supports that provide participation in cultural activities for First Nations participants.
Specialised driver training	The NDIS supports list now includes driver training with a specialised Vehicle Driving Instructor. This may include training on the use of adapted equipment or vehicle modifications.
Specialised supported employment	This category has been broadened to provide supports for a participant's employment setting of choice.
Specialised support coordination	This category has been changed to 'Support coordination' and includes supports for Level 1, 2 and 3 coordination centred around assisting participants to connect with informal community and funded supports.
Therapeutic supports	The list includes evidence-based therapy to help participants to improve or maintain their functional capacity in areas such as language and communication, personal care, mobility and movement, interpersonal interactions, functioning (including psychosocial functioning) and community living.
Maintenance of assistive equipment	Several categories now explicitly include the maintenance of assistive equipment, as well as services to assess and prescribe, deliver, adjust and train a participant in the use of an assistive product where applicable.
Psychosocial recovery supports should be included	Ongoing psychosocial recovery supports have been incorporated into Disability-Related Health Supports, and supports for participants with psychosocial support needs are referenced in Development Of Daily Care And Life Skills, High Intensity Daily Personal Activities, and Therapeutic Supports.
Supports that are not NDIS Supports	The list of supports that are not 'NDIS supports' has been amended, taking into consideration the feedback provided through the public consultation. Some descriptions have been amended to improve clarity and better reflect existing arrangements. Some categories have been reframed or restructured to improve readability.
General furniture removal and services	'General furniture removal and services, unwanted furniture pick up' has been removed from the list of non-NDIS supports.

Standard household items	Standard commercially available household items will be available through the replacement process for some participants.
Food and groceries	Modified foods (including for percutaneous endoscopic gastrostomy feeding) is now included in the list of NDIS Supports. The description of food services has been changed to allow for meal preparation and delivery in certain circumstances.
Smart devices & assistive technology	Specific assistive technology, including smart watches, tablets and smartphones will be available through the replacement process for some participants. Internet services, phone plans and data remain excluded.
Menstrual products	The lists now include modified or adaptive products to manage menstruation as an NDIS support.
Sex toys	Sex toys have been removed from the list of non-NDIS supports. 'Sexual services' are now excluded as an NDIS Support under the section 10 of the NDIS Act.
Trampolines	Trampolines have been removed from the list of non-NDIS supports .
General massage	Massage provided by an allied health professional for disability related purposes is no longer excluded as an NDIS support.
Hair and nail care	The NDIS supports list now includes under Daily Personal Activities: hair washing and drying, fingernail and toenail cutting and cleaning to maintain personal hygiene.
Mainstream – Health	The descriptions of some non-NDIS support items have been amended to improve clarity about the responsibilities for supports and services between the NDIS and health systems.
Palliative care	The lists clarify that NDIS supports provided to a participant will continue to be provided at the same time as palliative care.
Mainstream – Mental Health: Residential care	'Where the service model primarily employs clinical staff' has been removed from the description of this non-NDIS support.
Mainstream – Early childhood development	Some supports under this category has been amended to improve clarity about what is a non-NDIS support.
Mainstream – School education	Some supports under this category have been amended to improve clarity about what is a non-NDIS support.
Mainstream – Higher education and vocational education and training	Some supports under this category have been amended to improve clarity about what is a non-NDIS support. 'Transport between education or training activities' is no longer on the exclusion list.
Mainstream – Housing and community infrastructure	Some supports under this category have been amended to improve clarity about what is a non-NDIS support, and better reflect existing responsibilities across the NDIS and mainstream systems.
Mainstream – Aged care	The NDIS Supports list clarifies the NDIS will fund some aged care services for participants in residential aged care.

Appendix B: Acronyms

Acronym	Expanded
APTOS	Applied Principles and Tables of Support
Cth	Commonwealth
ILO	Individualised living options
MTA	Medium-term accommodation
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
SIL	Supported independent living
STA	Short-term accommodation

Appendix C: Final List of NDIS Supports and Non NDIS Supports