Kin | Disability Advocacy for Diverse Communities

Consultation on the NDIS Supports Rules and NDIS Support Lists

From Lists to Lives: Rebuilding Choice and Control Through Evidence, Equity and Lived Experience

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Table of Contents

About KIN Disability Advocacy (formerly EDAC):

KIN Disability Advocacy formerly (EDAC) is Western Australia's peak not-for-profit organisation advocating for the rights of people with disability, from a Culturally and Linguistically Diverse (CALD) background and their family and carers.

KIN Disability Advocacy is a member of the National Ethnic Disability Alliance (NEDA).

KIN Disability Advocacy currently receives recurrent funding from the Australian Department of Social Services (DSS) and the WA Department of Communities Disability Services (DS).

KIN Disability Advocacy delivers individual and systemic advocacy services in WA's metropolitan, regional, and remote areas. This includes state-wide CALD advocacy services and individual generalist advocacy to WA's North -West region (Kimberley and Pilbara).

Additional project funding is used to deliver human rights-based self-advocacy training for people with disability and their families/carers.

KIN Disability Advocacy operates a Digital Communication Project funded by the DSS, which addresses the intersection of disability and ethnicity in relation to various aspects such as services, policies, legislation, and more.

KIN Disability Advocacy generates additional income by providing cultural competency training to the disability services sector. The delivery of this training adheres to the National Disability Services Standards.

KIN Disability Advocacy expresses its gratitude for the opportunity to offer comments in response to the Consultation on the NDIS Supports Rules and NDIS Support Lists.

Executive Summary

Since the introduction of the NDIS Support Lists and transitional NDIS Supports Rules in October 2024, a significant divergence has emerged between policy intent and participant reality. While these rules aimed to simplify and streamline funding decisions, the resulting effect has been exclusionary, inconsistent, and administratively burdensome. This submission draws on lived experience, professional advocacy, and policy critique to outline the key failures, contradictions, and reform opportunities necessary to ensure the NDIS lives up to its founding principles of choice and control, inclusion, and fairness.

We argue that the current support rules contradict the flexibility envisaged by the NDIS Act, disproportionately disadvantage people with complex, cognitive, and psychosocial disabilities, and entrench structural ableism through bureaucratic categorisation. A rights-based, trauma-informed, and culturally competent approach must replace the narrow product- and exclusion-focused framework now in place.

Overview

1. Problematic Prescriptive Lists

The current structure divides support into three lists:

• Supports that are NDIS supports

• Supports that are not NDIS supports

• Replacement supports (as transitional exceptions)

This structure assumes that eligibility can be determined based on the nature of the item, rather than its function, use, or relevance to an individual's goals and impairments. This contradicts the foundational principle of the NDIS: that supports should be based on the individual impact of disability, not on the type of support alone.

For example, a washing machine for a participant with severe incontinence may be essential to daily functioning and health. Yet its inclusion is relegated to a vague and inconsistently applied "replacement support" pathway. Similar issues have emerged around assistive clothing, personal alert systems, modified cooking aids, and supportive furniture.

These lists also rely on assumed clarity that does not exist in practice. Service providers, plan managers, and NDIA delegates interpret rules differently. Tribunal cases are increasing due to arbitrary denials based on list restrictions.

Recommendation 1: Abandon exclusion-based support lists and return to a principle-based approach focused on functional need, participant goals, and lived context.

2. Inconsistent Implementation and Internal Contradictions

The NDIA's internal guidance (which is not made public) appears to override the published support lists. This lack of transparency allows for inconsistent interpretations and poor- quality decision-making.

For example, Tribunal rulings have overturned NDIA decisions that relied solely on list- based exclusions without proper functional assessment. In PLC and CEO, NDIA [2025] ARTA 74, the Administrative Review Tribunal found the original plan failed to meet the participant's needs, requiring 2:1 high-intensity support that the NDIA had denied. The Tribunal ordered reconsideration of support needs, including personal care, overnight assistance, and essential equipment. Furthermore, the same item (e. g., a tablet) may be funded for one participant and not another, without justification, often due to differing interpretations of the list by plan managers or NDIA staff.

Recommendation 2: All NDIA decision-making frameworks, including internal guidance used to interpret the Support Rules, should be made public and subject to review.

3. Cultural and Intersectional Inaccessibility

The current lists assume a culturally neutral and economically privileged participant. This neglects the diverse needs of participants who:

- Speak a language other than English
- Are from First Nations communities
- Live in remote or regional areas
- Experience intergenerational trauma

- Are refugees or asylum seekers

Participants from these backgrounds are disproportionately impacted by exclusions, as the supports they need often do not appear on lists or are dismissed as mainstream, even when no mainstream alternatives exist.

Recommendation 3: Co-design all future Support Rules with culturally and linguistically diverse participants and develop culturally adapted examples of fundable supports.

4. Administrative Burden and Burnout

The current approach increases administrative overhead for participants, families, and providers. For each support request:

- Justification documents must be rewritten in line with prescriptive list language
- Reviews and appeals are initiated
- Service delivery is delayed

This often results in families being forced to pay out-of-pocket or go without. Carers, particularly mothers, are bearing the brunt of this policy burden, with significant impacts on mental health and economic participation.

Recommendation 4: Create streamlined funding approval pathways for low-cost essential items used frequently across disability types (e. g., weighted blankets, hygiene aids, support garments).

5. Replacement Support List: A Broken Stopgap

The replacement supports pathway, introduced to allow limited funding for some previously available items, is poorly understood. The eligibility criteria, assessment process, and review mechanism are opaque. Items like smartphones, smartwatches and applications are inconsistently funded or restrictively unfunded even when they directly support communication, cognitive function, or behaviour regulation. Moreover, no clear process exists

for expanding this list. This entrenches a static model that resists innovation, individualisation, and responsiveness.

Recommendation 5: Develop a transparent, regularly updated replacement supports register with public criteria, timelines, and a lived-experience advisory panel.

6. Tribunal Rulings Treated as Exceptions

Multiple Tribunal rulings (including 2024 and 2025 precedents) show that participant-specific context overrides support list exclusions when legally challenged. This confirms that the list model is flawed. Yet these rulings are not reflected in updated NDIA policies.

For example, while the Tribunal may determine that overnight care is necessary for a young participant with epilepsy and autism, the NDIA continues to deny such support in similar cases on list-based grounds. This results in costly, time-consuming legal processes that are inaccessible to most families.

Recommendation 6: Establish a mechanism for Tribunal decisions to directly inform updates to the Support Rules and provide a public database of key precedents.

7. Human Rights and Convention Compliance

Australia is a signatory to the UN Convention on the Rights of Persons with Disabilities (CRPD). Articles 19 (Living independently and being included in the community), 20 (Personal mobility), 21 (Freedom of expression and access to information), and 26 (Habilitation and rehabilitation) are undermined by these restrictive rules. Exclusionary policies disproportionately affect those least able to self-advocate and conflict with Australia's commitments under the CRPD.

Recommendation 7: Align all Support Rules with CRPD articles and conduct a compliance audit of current list-based exclusions.

8. Rebuilding Trust Through Transparency and Inclusion

The NDIS was meant to restore dignity, choice, and independence to people with disability. Current support lists do the opposite: they infantilise participants, centralise power, and reduce flexibility. The best way forward is to return to a personalised, co-designed model of decision-making. Tools such as real-life case examples, participant-led panels, and human rights-based assessments can replace rigid lists. Public education, not policy gatekeeping, will improve consistency.

Recommendation 8: Replace list-based rules with a participatory guidance model based on co-design, regular review, and plain-language access.

The lists of NDIS support provided are too restrictive, confusing in definitions and scope of application, underestimates participant's level of understanding and subsequently lacks consistency in interpretation by NDIA participants, for example:

- *Supports that are NDIS Supports*
- *PB Supports that are not NDIS supports*
- *PB Replacement Supports*

These documents have an **implied reading age of approximately 17–18 years**, equivalent to **Year 12 to early tertiary education** which can potentially **exclude many groups of participants by this reading level – example:**

- People with intellectual disability – Cannot independently understand eligibility or appeal rights.
- People with psychosocial disability – may disengage from NDIS processes due to overwhelm or trauma triggers in language.
- Multilingual and refugee communities have limited ability to navigate English-only documents or complex phrasing.
- Older carers (e.g., CALD parents/grandparents) – struggle with government jargon and are often not given translated guides.
- People with acquired brain injury or literacy barriers – need visual, oral or simplified formats to access information equally.

The Consequences of such High Reading Level trigger the following:

- Systematic Disability Rights Violation excluding those with language, literacy, or cognitive access needs.
- Cause reduced uptake of valid supports which breach UNCRPD Article 21: (Access to information).
- Undermines participant choice and control forcing them to rely on third parties: (plan managers, support coordinators).
- Adds administrative burden and delays to critical supports which potentially increase appeals and reviews.

Recommendations to DSS and NDIA

- ***Rewrite all support list and rule documents in Plain English.***
- ***Publish Easy English versions with community-tested design.***
- ***Use participant-centred co-design panels, not token consultation.***

Conclusion

The current NDIS Supports Rules and Lists are failing participants. They are conceptually flawed, structurally inconsistent, culturally exclusionary, and legally unsustainable. Reform must be co-designed, evidence-driven, and trauma-informed, restoring the promise of the NDIS as a vehicle for dignity and independence.

We urge the Department of Social Services and the NDIA to rethink not only what is on or off the list, but whether lists are the right tool at all. Real change will come when the system sees people not categories.