

Submission by



qai

Queensland
Advocacy
for Inclusion

NDIS Supports Rules

To the Department of Social Services

27 July 2025

About Queensland Advocacy for Inclusion

Queensland Advocacy for Inclusion (QAI) is a Disabled Peoples Organisation. We are an independent, community-based advocacy organisation and community legal service that provides individual and systems advocacy for people with disability. Our purpose is to advocate for the protection and advancement of the needs, rights, and lives of people with disability in Queensland. QAI's Management Committee is comprised of a majority of persons with disability, whose wisdom and lived experience guides our work and values.

QAI has been engaged in systems advocacy for over thirty-five years, advocating for change through campaigns directed at attitudinal, law and policy reform.

QAI also provides individual advocacy services in the areas of human rights, disability discrimination, guardianship and administration, involuntary mental health treatment, criminal justice, NDIS access and appeals, and non-legal advocacy for young people with disability including in relation to education. Our individual advocacy experience informs our understanding and prioritisation of systemic advocacy issues.

Since 1 January 2022, QAI has also been funded by the Queensland Government to establish and co-ordinate the Queensland Independent Disability Advocacy Network (QIDAN). QIDAN members work collaboratively to raise the profile of disability advocacy while also working towards attitudinal, policy and legislative change for people with disability in Queensland.

CONTACTS: Sian Thomas, Principal Solicitor, NDIS Advocacy, Sophie Wiggins, Principal Systems Advocate or Matilda Alexander, CEO, Queensland Advocacy for Inclusion, 07 3844 4200, qai@qai.org.au

QAI's recommendations

The new NDIS Supports rules should:

1. Set participants up to succeed, not fail.
2. Contain one list, not two.
3. Allow for nuance and be adaptable to the individual needs of participants.
4. Uphold participant choice and control regarding disability supports.
5. Enable participants to purchase cost-effective, value for money supports to meet their disability support needs. This should include standard household items that are required as a direct result of the person's disability support needs.
6. Expand the list of evidence-based therapies to include therapies such as art, music and equine therapy when delivered by suitably qualified professionals.
7. The in list should include funding associated with disasters including the development of disaster plans and funding to support participants through disasters.
8. The in list should specifically allow funding to support cultural needs and the specific challenges for regional and remote NDIS participants.
9. Separate those parts of this list which relate to services or supports which are potentially available through other government systems.
10. Be implemented by a well-informed workforce.
11. Be supported by consistent operational guidelines and policies within the NDIA.
12. Regarding replacement supports:
 - Expand the replacement support process to include a broad range of supports and not just standard household items and a small list of electronic goods.
 - Replacement support decisions should be reviewable.
 - Allow participants to purchase replacement supports up to an appropriate value (eg \$5,000 or alternatively a percentage of the core and improved daily living budgets) without needing approval of the agency, using funding already available in the participant's core budget.

- For items that cost over the value, participants could be asked to submit a formal request for a replacement support, with relevant evidence.

13. Make the drafting changes throughout the lists to improve application – a sample of our recommended changes are in the table in **Annexure A**.

14. That the Government release an exposure draft of the new Rules and allow for at least 4 weeks further consultation on those Rules.

Our experience

QAI is funded by the Department of Social Services (DSS) to deliver NDIS Appeals Support.

Our NDIS Appeals team:

- Are experts on the application of the NDIS legislation and rules as they apply to access and planning decisions
- Represent people with a disability at the Administrative Review Tribunal (ART) appealing a decision of the NDIS. Our advocates and solicitors regularly appear for clients at case conferences and conciliations at the ART
- Provide individual advice sessions to people with a disability at all stages of their NDIS ART appeal. We work to assist clients to self-advocate at the ART, for example assisting clients to understand legal documentation and articulate their needs to the Agency
- Provide community education on NDIS appeals, for example by speaking at events and creating fact sheets.

It is with our frontline experience speaking with hundreds of participants and their families that we write to you with our feedback for the NDIS Supports rules consultation.

Introduction

Like Medicare, the National Disability Insurance Scheme (NDIS) is an essential public service. It is transforming the lives of people with disability, their families and our communities. When people with disability access individualised disability supports, they enjoy independent, dignified lives that enrich our society. It is critical that the NDIS continues to achieve its objectives to support the independence and social and economic participation of people with disability.

Our submission highlights concerns regarding: 1) the content of the NDIS Supports rules; 2) the impact of the NDIS Supports rules; and 3) the lack of safeguards and rights for participants regarding the NDIS Supports rules.

The transitional NDIS Support rules have reduced flexibility and choice and control for participants. They have made some people with disability fearful to purchase essential supports out of concern that their invoices won't be paid. They suggest a breakdown in trust

between the agency and participants. The rules have also forced some participants to spend *more* money on their supports and use supports and services which are less inclusive.

While we support the intention to create some consistency and see the value in *some* items being defined as NDIS supports, the rules **must** allow for nuance and for individuals to access supports that are tailored and appropriate to their unique needs. There cannot be a ‘one size fits all’ approach as disability is inherently diverse. Items which might be an appropriate disability support for one person might not be appropriate for another.

Most participants are doing the right thing and the agency’s processes must set people up to succeed, not fail. Without significant reform to these Rules, the scheme is at risk of drastically changing and taking away its founding principles of choice and control.

1. Content and drafting of the NDIS Supports Rules

There is significant inconsistency and confusion between items in Schedule 1 that are listed as NDIS supports (the “in list”) and items in Schedule 2 that are listed as not being NDIS supports (the “out list”). A table in **Annexure A** sets out commentary on several items in the transitional rules which require removal and / or editing due to inconsistency and confusion. This list is not exhaustive.

In summary:

- Having two separate lists is difficult to interpret and apply. There is a tendency to look only at the “out list” without reference to the “in list”, even when the “in list” provides a clear pathway to an item being funded. For example:
 - building repairs are listed in Schedule 2 as supports that are not NDIS supports, however, building repairs associated with repairing damage that has been caused by disability-related behaviours are listed as NDIS supports in Schedule 1.
 - short-term accommodation and respite is listed as an NDIS support in Schedule 1, however holiday accommodation is listed as not being an NDIS support in Schedule 2, even though some participants may access respite in an

accommodation settings typically used as ‘holiday accommodation’ by non-participants of the scheme.

- The “out list” includes multiple items which can and should be funded in certain circumstances. For example, the “out list” excludes bookkeeping, yet self-managed participants are specifically allowed to use a bookkeeper as stated in the operational guidelines.
- The definition of “standard item” fails to account for the countless items which, whilst not ‘modified or adapted’ to address a person’s functional impairments, can result in significant benefits and outcomes for a person with disability. Please see our table for multiple examples of this, such as weighted blankets and air-conditioning.
- Standard household items, appliances, tools and products should have a principled test applied as to whether they are an additional living cost incurred by a participant solely and directly as a result of their disability support needs (see Rule 5.2(a) of the NDIS (Supports for Participants) Rules 2013 and will result in improved outcomes for the person.
- Therapeutic supports, i.e. supports that provide an evidence-based therapy to help participants improve or maintain their functional capacity, are inadequately described in Schedule 1. Evidence-based therapies for example such as art, music or equine therapy, when delivered by suitably qualified therapists, need to be included in the “in list.”
- The lists outline supports that can be funded by the NDIS and supports that are potentially available through other government systems, such as health, justice, or education. The list should be in two parts with the second part dealing specifically with the responsibilities of the NDIS and other service systems.

2. Impact of the NDIS Supports Rules

The NDIS Supports rules in their current form are having the following impacts:

- Limiting participants access to NDIS supports due to inconsistent drafting and incorrect application by planners, plan managers, support coordinators and participants who have become afraid to purchase supports out of fear they will be

penalised for doing something wrong. People are afraid they will have a debt raised against them and participants are concerned they could have their status as a participant revoked.

- The fear is exacerbated by the non-transparent way payments can be refused by the Agency or Planners, with no review right where payment for a support is refused. This can lead to supports which are NDIS supports not being paid and participant's left with debts and no proper recourse.
- Preventing participants from purchasing supports which are value for money and which support the principles of inclusion and universal design. The rules force participants to use specific 'disability' items or services as opposed to mainstream alternatives which are often more readily available, cost-effective and inclusive. This creates a pseudo 'disability shop' and leads to further exclusion and segregation of people with disability, contrary to the objectives of the scheme and the UN Convention on the Rights of Persons with Disabilities (CRPD). For example, participants have had invoices for continence consumables, such as wipes, creams and pads, declined by plan managers when the items have been purchased from a mainstream retail outlet such as a chemist as opposed to places like HECSA or Independence Australia who may sell the items at a higher price. Participants have also been denied the ability to access inclusive, general community activities that provide capacity building and social inclusion and instead have been forced to access segregated, 'specialist' services offering the same support.
- The rules stifle flexibility during emergencies and natural disasters. This was apparent in Queensland during Cyclone Alfred when QAI spoke with clients who required emergency and additional support because of their disability. For example:
 - Needing to access short term accommodation when emergency evacuation centres were inaccessible (both for physical and psychosocial impairment).
 - The need for power generation to maintain critical support, including keeping life-sustaining medications cold.
 - Needing workers to stay overnight and extra-long shifts due to it being unsafe to go home and participants requiring extra support to manage heightened dysregulation.

- Plan flexibility to support people to shelter in place rather than seek inaccessible alternatives.

The rules and the NDIA both proved inflexible and unresponsive in these circumstances. We refer you to our [broader reflections on Cyclone Alfred](#) for more detail and case studies on this issue.

3. Safeguards and rights regarding NDIS Supports Rules

There is adequate procedural fairness regarding the NDIS Supports rules and how they apply to participants plans. The process to obtain ‘replacement supports’, i.e. supports that are stated in the rules as not being NDIS supports, is particularly inadequate because:

- It is too narrow, only applying to ‘standard commercially available household items’ or smart watches, tablets, smartphones or apps used for accessibility or communication purposes. This leaves out a significant number of other items, including household appliances, which for some participants would constitute a reasonable and necessary disability support.
- It is at the discretion of the Agency, meaning there is inconsistency in the way decisions are made.
- Supports obtained via the replacement support process are not added to or listed in a participant’s plan. This means that if a participant’s plan is under review, for example at the ART, replacement supports cannot be considered by the Tribunal, despite the fact that the replacement support may impact and be inextricably linked to other supports being considered by the Tribunal. For example, a robot vacuum cleaner or Thermomix could, for some participants, reduce the level of support worker hours needed while increasing their independence and saving the scheme money.
- A participant cannot review or appeal a decision of the agency to approve or decline a request for a replacement support.
- It imposes an additional and unreasonable administrative burden on participants, particularly when the cost of the support being requested is less than the cost of the allied health therapy assessment and report required to prove it is required. For example, a report, alone, let alone the time by the NDIA, the participant and support

coordinators to justify a replacement support the cost of \$450 app for a phone which helps with accessibility is completely disproportionate to the cost of reports and the administrative burden across the spectrum.

QAI is of the view that the replacement support process should be expanded to include a broad range of supports and not just be limited to standard household items and a small list of electronic goods. Participants should also have review and appeal rights regarding decisions made by the agency in relation to replacement supports.

QAI proposes that the new rules allow participants to purchase replacement supports up to the value, we consider \$5,000 would likely be appropriate (or a percentage of the core and improved daily living budgets), without needing approval of the Agency, using funding already available in the participant's core or improved daily living budget (or a combination of both). In doing this, when combined with current Rules a participant would need to do their own assessment, with advice from their support team, that the item will assist with the reduction of their support needs up to the value of the item.

This would remove unnecessary assessments and reports for low-cost items and would provide participants with flexibility and choice and control to purchase mainstream items that, while not modified or adapted to address disability, result in significant benefits and outcomes for a person with disability. By enabling the participant to use their budget, it also ensures the items really are *replacing* otherwise funded supports to assist with daily life. For items that cost over \$5,000 (or the percentage), participants could be asked to submit a formal request for a replacement support and for those matters, additional funding could be considered with a view that the item could reduce supports in future plans, with relevant evidence. Participants should have review and appeal rights regarding this process.

Conclusion

Without significant improvements, the NDIS Supports rules present a serious risk to the NDIS. They have introduced a level of rigidity into the scheme that is threatening positive outcomes for people with disability. The rules are resulting in situations that are contrary to the scheme's key principles of choice and control and inclusion. The rules also threaten the

scheme's sustainability by needlessly preventing people from accessing cost-effective and value for money solutions to their support needs.

Rigid decision-making about funded supports was not what the Australian disability community envisaged when it tirelessly campaigned for the NDIS. Nor will it deliver the scheme that Australia is so proud of on the international stage. Behind these lists are people's lives. The rules must therefore be nuanced and adaptable to the individual needs of participants and must be implemented by a well-informed workforce.

QAI thanks the Department of Social Services for the opportunity to contribute to this consultation. We are happy to provide further information or clarification of any of the matters raised in this submission upon request.

ANNEXURE A:

This list is not intended to be exhaustive of the issues QAI has identified, rather provides a selection of issues we have observed in our practice and on review.

Reference	NDIS Support	Commentary	QAI recommendation
Rule 4 – Definitions	“Standard items” Specifically relevant to Schedule 2, Item 1 (i), (j),	This definition fails to account for the countless so called “standard items” which whilst not ‘modified or adapted’ to specifically address a persons’ functional impairments, result in significant benefits or outcomes for a person with disability. Examples include: • Draw dishwasher, which may be ‘standard’ but have the potential to support people with physical disability to load and unload a dishwasher,	The definition of ‘standard item’ should be amended to include the following: <i>standard item</i> for a participant or prospective participant means: • an item that is not modified or adapted to address the functional impairments of the participant or prospective participant, and

Reference	NDIS Support	Commentary	QAI recommendation
		Robot vacuum cleaner which can assist a person to vacuum their house without continual reliance on a person. These are just a few examples. These are not what we would consider 'every-day items.' For most households, they are luxury items but for a person with a disability they are life changing and cost efficient.	does not provide outcome towards a person's functional capacity.
Schedule 2 (No list) – Day to Day living costs			
Sch 2, (out list) Item 1(a)	Rent, rental bonds, home and property deposits, stamp duty, mortgage repayments and strata fees (a). AND water, gas and electricity bills (f)	Specific exceptions to these items are required for the following: an approved independent living option (ILO) which envisages a creative independent support system which may include in kind supports in exchange, for example, reduced rent. (See the NDIS https://ourguidelines.ndis.gov.au/supports-you-can-access-menu/home-and-living-supports/individualised-living-options)	Exceptions to these items are required.

Reference	NDIS Support	Commentary	QAI recommendation
		stamp duty paid as part of any insurance which is a NDIS Support (eg insurance for very expensive powered wheelchairs or vehicle modifications).	
Sch 2 (out list), Item 1(c) and Sch 1, Item 22	Standard home security and maintenance costs, fencing, gates and building repairs. (Needs to be read in conjunction with Sch 1, Item 22)	This item fails to account for: - Home security systems which have a clear benefit and outcome associated with a person's disability (eg a Deaf person who has security cameras to assist with seeing people attending the home or other security systems which are required to manage the coming and going of support workers), - Fencing which is an approved restrictive practice - Building repairs which caused by significant behaviours associated with a person's impairments. This item is allowed in Schedule 1, Item 22(b) but can easily missed by planners and others.	Exceptions to these items are required in the lists. Standard items should be permitted particularly where cost effective versus a speciality item.
Sch 2 (out list), Item 1(j) and Sch 1, Item 22	Air conditioning	Airconditioning is an item that previously could be funded where a participant is unable regulate their body temperature.	Should be permitted: where a participant impairment impacts a person's ability to regulate their body temperature, or

Reference	NDIS Support	Commentary	QAI recommendation
		It could have been funded alone or as part of a home modification. It is a relatively low-cost item that has potential life-saving impacts where a person is unable to manage their body temperature or who spends significant time in bed.	- the participant is required, due to their disability to stay in bed for long periods of time and appropriate temperature control is required, or - part of an approved home modification.
Sch 2 (out list), Item 1(h)	<u>electricity generators</u> , solar panels, <u>home batteries for power storage</u> , hot water and gas systems	Maintaining electricity through disaster is critical for some people with a disability and this should be allowed to ensure people can shelter in place during a disaster. During Cyclone Alfred when power was out for up to a week, the QAI Pathway's hotline operated and people with physical disabilities relying on electronic assistive technology and equipment or those needing to keep medicines refrigerated found they could not acquire an electricity generator due to the regulation change. Plan flexibility could support people to shelter in place rather than seek alternatives.	Electricity generators and batteries should be able to be funded where electricity is required to support a person with disability to shelter in place.
Sch 2 (out list), Item 2	(k) business development costs and business skills development costs, including company	For self-managed participants, using accounting software to pay wages or a book-keeping service is permitted. See NDIA's own guide updated in April 2025 provides at page 8:	Amend this provision to specifically exclude costs directly associated with self-management where those costs are within the funded core budget.

Reference	NDIS Support	Commentary	QAI recommendation
	registration, <u>book-keeping, accounting services</u> or software;	<i>For example, you might <u>buy an online training package to help with things like learning to budget and keeping records</u>. Or you might <u>buy bookkeeping services to help with payroll for staff you employ</u>. Learn more in our guide to Directly engaging your own staff.</i> We are aware of the NDIS raising this issue with self-managed participants and moving them to plan management. The operational guideline can be found at: https://www.ndis.gov.au/participants/using-your-plan/self-management	(Noting self-managed participants do not have plan management costs in the plan which can result in significant saving for the Scheme).
Sch 2 (out list), Item 3	The following: (a) groceries including all food, beverage, <u>cleaning, household and health products</u>	The inclusion of cleaning, household and health products should be removed from this section entirely because this section is about food.	Remove these words from this section. Specific household cleaning products should be dealt with in its own line item and allowed where a participant has very high support needs which require a very high level of hygiene. Very high personal care support needs do require significantly more cleaning and household products. This is particularly relevant for participants with

Reference	NDIS Support	Commentary	QAI recommendation
			double incontinence. This needs to be recognised clearly. Items include cleaning product, wipes, hand sanitation products, bin liners.
Sch 2 (out list), Item 4 (d), (e) and (f)	(d) internet devices (such as modems and routers), land line phones, mobile phones (including smart phones), mobile phone accessories, tablets and sim cards; (e) internet, landline and mobile phone plans and data;	These can be essential disability supports for some participants, particularly for clients who rely on visual communication methods and visual interpretation services which require significant data.	For members of the Deaf and hearing-impaired community and others who have high data requirements due to their disability, the Rules should permit the payment of support for high data load and/or in-home wifi over and above what would ordinarily be expected due to their disability.
Sch 2 (out list), Item 4	(k) costs associated with weddings, honeymoons, funerals, and other social, business, private, public, formal or informal events; (l) musical instruments, music production and social media production;	Items like this can be easily misunderstood to mean that a person who attends one of the events in (k) cannot use any support to do so.	For (k) additional words to specifically exclude the use of support workers to attend events like those listed in (k). Modifications to musical instruments if required for a person's disability should be permitted.

Reference	NDIS Support	Commentary	QAI recommendation
Sch 2 (out list), Item 4	(h) costs associated with recreational sports and activities, including membership costs Needs to be considered with Sch 1, Item 19	Accessing recreational sport for children with disability can be significantly more expensive than for children without a disability. Example: QAI assisted a child with ASD, whose due to his disability could not access regular group swimming classes and needed one-on-one swimming lessons. Schedule 2, Item 4(h) provides that the NDIA cannot pay for the ‘costs associated with recreational sports and activities’. This fails to account for the additional barriers children with disability face accessing sport and other recreational activities. Learning to swim is a key life skill and can include significant benefits for children with disabilities.	That the lists allow the ‘gap’ costs to access recreational activities, like swimming, wheelchair sports etc be permitted.
Sch 2 (out list), Item 6	Short term accommodation and respite	(Sch 1, item 5) versus holiday (Sch 2, item 6) is a key example where we hold significant concerns regarding the application and interpretation of these provisions. Example: We have worked with a client who used their core funds flexibly for respite for his mother to have a break from her caring responsibilities and to build the client’s independence skills in accessing the community.	Clearer definitions of respite need to be in the rules and include respite or short-term accommodation cover the cost of support, accommodation (which should include hotels or airbnb’s), food and activities where a participant stays away from their main home and without their main informal

Reference	NDIS Support	Commentary	QAI recommendation
		His mother is his main informal carer and she arranged for our client to stay at the Gold Coast with his sister acting as his informal and unpaid carer for 11 days (rather than a paid support worker). During that time, he met his occupational therapist twice and actively engaged in capacity building sessions targeting his communication and social skills, confidence in community settings, communication with peers, and developing self-esteem. His mum had valuable respite. Because a 'disability support provider' was not used, the costs of this respite (being the direct cost of the accommodation, some food and a few activities) were significantly less than if the client had attended a disability provider for 11 days. Despite the reduced cost of this respite, the NDIA have refused to pay, putting the family in financial distress. This type of respite had been previously approved, shortly before the introduction of the NDIS Supports List Rules. This pushes people into using 'packaged disability STA' or respite which is	support. Costs must not exceed those in the Price Guide for Short Term Accommodation.

Reference	NDIS Support	Commentary	QAI recommendation
		inevitably more expensive, increases segregation and removes choice and control and flexibility. Public evacuation centres are often not suitable for participants and therefore alternative housing (STA / respite) is an option. There was fear expressed by participants that this wouldn't be approved.	
Sch 2 (out list), Item 6	Modified fully accessible vehicles in special circumstances	There is a small number of participants with significant impairments, who can only access the community in highly specialised vehicles. The base cost of these vehicles is in the vicinity of \$60,000. Being able to access the community, safely is a fundamental human right and for some participants this is impossible without a fully accessible modified vehicle. The base vehicle appropriate for vehicle modification is not a standard nor everyday expense for people with significant disabilities. (Note, we consider, there is scope for the NDIA to register security interests on these types of items so that the participant cannot sell them without the Agency's consent).	Allow for the provision of vehicles suitable for modification in exceptional circumstances. Clarify that the hire of a modified assessable vehicle is also permitted in exceptional circumstances and for set time periods (eg whilst waiting for modifications to occur).
Sch 2 (out list), Item 9	Not evidence based – alternative and complimentary therapies	There should be a clear transparent basis for excluding therapies. Therapies that do have an evidence base include	The list of therapies that can be funded should be expanded to include chiropractor,

Reference	NDIS Support	Commentary	QAI recommendation
		equine therapy, music and art therapy. Each of these have been caught up in this list, depending on the Tribunal's interpretation. Further qualified allied health professionals (eg a psychologist who incorporates sound, movement or animals in their therapy) should not be mistakenly not approved by a NDIS planner who hears the word 'animal'.	music, art and equine therapy provided by appropriate qualified professional.
Sch 2 , Item 10	Gaming therapy	This should not exclude community access programs which include games or gaming as part of the activities to building social and community connection.	It should be clear that group community activities which incorporate gaming as a social participant event can be funded.
Sch 2, Item 16	School holiday programs	School holiday programs are run by after school providers during the school holidays to provide care for working parents. They are low cost with the daily rate being in the vicinity of \$30-\$60 with a government rebate available. The ratio of care for these programs is 1:15. Children who require a higher ratio of care are unable to access these programs. This leads to segregation.	Programs for children to access and participate in community, social, cultural and recreational activities that are provided in a group setting, either in the community or in a centre are allowed under Sch 1, Item 19. These should not be prevented just because they occur on a school holiday. Further, there should be a mechanism for mainstream school holiday programs to cover the costs of higher care ratio's

Reference	NDIS Support	Commentary	QAI recommendation
			required for children with a disability. This could be through additional fees, covered by NDIS funding until appropriate foundational supports are available.