

# New Framework Planning Rules



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[www.swanautism.org.au](http://www.swanautism.org.au)

## Executive Summary

South West Autism Network (SWAN) welcomes the opportunity to respond to the proposed New Framework Planning rules, but holds profound concerns about the direction, pace and safety of these reforms. The framework is being progressed without public exposure drafts of the rules, without a published budget method, and with an assessment tool (I-CAN v6) that has not been adequately validated for autistic people, people with complex communication needs, psychosocial and degenerative disabilities, sensory disability, First Nations communities, culturally and linguistically diverse communities, or regional and remote populations.

SWAN is particularly concerned that the new model recentres power within the NDIA and its algorithms, while reducing participants' ability to have their treating clinicians' evidence considered, to correct assessment errors, or to challenge unsafe or inadequate plans. The framework embeds a high-stakes Support Needs Assessment conducted predominantly by non-allied-health staff, with limited disability expertise, and then locks in budgets that are difficult to review and have substantially reduced appeal rights. This is the opposite of the trauma-responsive, relationship-based, goal-directed and person-centred planning that people with disability were promised.

The proposed planning rules also fail to address the well-documented inequities faced by regional and remote participants, including severe workforce shortages, higher costs, and thin or non-existent markets. Instead of building in mandatory regional loadings and genuine flexibility, the framework relies on discretionary adjustments, over-uses Stated Supports, and allows restrictions, requirements, funding periods and direct commissioning arrangements that will continue to make many regional plans effectively unusable.

SWAN is deeply concerned that the combination of an inadequately validated assessment tool, opaque budget method, over-reliance on Stated Supports, short funding periods and constrained review pathways will result in widespread funding reductions, increased avoidable hospitalisation, greater exposure to violence, abuse and neglect, and in some cases preventable death. The transition timeline (commencing from mid-2026 with a five-year transition) is far too short to safely implement reforms of this scale, particularly in the absence of full testing with real participants and robust safeguards against people being made worse off.

SWAN therefore recommends that implementation of New Framework Planning be delayed until the assessment tools, budget method and rules are fully validated, tested in full with diverse people with disability, transparently published and co-designed with the disability community. We strongly recommend that the Government re-commit to the original intention of the NDIS – the core principles of individualised, goal-directed support, real choice and control, and equitable access for people in regional and remote Australia.

## Acknowledgements

SWAN acknowledges the traditional owners of the land on which this submission was produced, the Wardandi Noongar people. We acknowledge their deep spiritual connection to this land and extend our respects to community members and Elders past and present.

## About SWAN

South West Autism Network (SWAN) is a not-for-profit, charitable organisation that has been supporting autistic individuals and their families in the south-west region of Western Australia for the past 17 years. We are a Disabled Persons and Families Organisation (DPFO) with more than 2,000 members, and we provide free support to many more people with disability and their families. All staff, volunteers, and Board members either have a disability or are family members of someone with a disability.

Our primary role in the community is to provide information, peer support, advocacy, and connections to mainstream and disability services. We build the capacity of people with disabilities and their families to navigate government and non-Government systems to meet their needs and participate in their local communities. We support people seeking diagnosis, post-diagnosis, and across their lifespan, and provide autistic-safe space group programs for autistic children, teens, and young adults through our AutStars and YES Programs. We also deliver Youth Mental Health First Aid training to the wider community.

As a regional not-for-profit Disabled Persons and Families Organisation (DPFO) providing information, peer support and advocacy, we are able to draw on 17 years' experience supporting autistic individuals and their families, school staff, professionals and the wider disability community.

## Introduction

SWAN welcomes the opportunity to provide feedback on the proposed New Framework Planning rules. This submission draws on:

- Direct feedback from SWAN members and community participants.
- SWAN's established positions on NDIS reform, including our [submissions](#) to the Getting the NDIS Back on Track Bill (May 2024), the Draft Lists of Permitted and Prohibited NDIS Supports (August 2024), the Permanent NDIS Supports Rules (July 2025), and the Joint Standing Committee on NDIS Inquiry into participant experience in rural, regional and remote Australia (March 2024).
- Analysis of the consultation materials, including the Discussion Paper, What We Heard Summary Report, and draft Explanatory Documents.
- Evidence from regional and remote service delivery contexts.

Importantly, it is deeply concerning that there remains no public exposure draft of the proposed New Framework Planning Rules. This is of particular concern in the context of scheduled rollout of New Framework Planning from 1<sup>st</sup> July 2026, with no confirmation that a public exposure draft of all proposed Rules will be released for community feedback.

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# Support Needs Assessment Process

## I-CAN Assessment Tool: Validation Concerns

SWAN shares the widespread concerns expressed during sector consultations about the I-CAN (Instrument for the Classification and Assessment of Support Needs) version 6 assessment tool. The [What We Heard Summary Report](#) clearly documents that the disability community asked for evidence that the tool has been tested with diverse groups, including autistic people, people with complex communication needs, people with sensory disability (blind, deaf and deafblind), individuals from culturally and linguistically diverse backgrounds (CaLD), LGBTQIASB+ communities, First Nations peoples, and people in rural and remote areas.

### **These questions have not been answered.**

The Discussion Paper states only that I-CAN version 6 'has been refined over 20 years and is used in programs including the national Disability Support for Older Australians [DSOA] program'. Validation evidence supplied by the National Disability Insurance Agency (NDIA) and the Department of Health, Disability and Ageing (DHDA) from the Centre for Disability Studies (CDS) to-date shows that almost all validation testing has been conducted on people with intellectual disability. This is not evidence of validation for the disability cohorts who will be assessed under the New Planning Framework. The DSOA program serves a fundamentally different population with different support needs, service contexts and assessment requirements, and anecdotal reports from people with disability and families under the DSOA program indicate that funded supports in that system have been consistently inadequate to meet needs.

### **SWAN is particularly concerned about the suitability of I-CAN for autistic participants.**

Autism is characterised by:

- Significant variability in presentation across different environments and contexts.
- Communication difficulties and literal interpretation of language making it difficult to contextually understand questions - with high risk of under-representing support needs unless assessed by highly skilled and qualified practitioners with specific expertise in autism.
- Masking and camouflaging of support needs, particularly among women and gender-diverse individuals
- Fluctuating capacity depending on sensory environment, stress levels, and executive function demands.
- Support needs that may not be captured by daily living skills assessments, including needs for sensory accommodations, social navigation support, and executive function supports.
- Autism is a dynamic disability - autistic people's capacity to function fluctuates dramatically depending on environmental and biological factors. An autistic person may be able to perform certain tasks in a specific environment with specific support, when well-rested and healthy, but unable to perform the same task in a different environment, or with different supports, or when unwell, fatigued, or experiencing sensory overload.

Feedback from allied health professionals qualified to use I-CAN v6 have indicated that the tool is inadequate for identifying and capturing the support needs of autistic individuals.

The I-CAN tool's focus on observable daily living tasks risks fundamentally misrepresenting autistic support needs. A person who can independently perform tasks in a controlled assessment setting may require substantial support in real-world environments with unpredictable sensory stimuli, social demands, and executive function requirements. The tool relies heavily on self-reported information gathered through a 'conversation' – a semi-structured interview conducted at a single point in time. The NDIA has advised the disability community that the assessors will use their judgement to determine which I-CAN domains and questions will be covered with individual participants. Given that the majority of assessors will **not** be allied health professionals, this raises serious concerns that critical support needs will be overlooked.

The I-CAN also has a scoring ceiling, meaning higher or more complex needs may go unrecognised if they exceed the tool's parameters, such as where a participant required two to one supports. Where assessment outcomes determine the funding budget, these limitations carry significant risk. Any gaps or inaccuracies will directly result in underfunding, with serious consequences for safety, stability and wellbeing.

The What We Heard Summary Report documents concerns that 'I-CAN's focus on daily support needs might miss capacity-building needs'. For autistic participants, this is critical. Many of the most important NDIS supports for autistic people are capacity-building, including (but not limited to):

- Therapy to develop social communication skills, emotional regulation and independent daily living skills
- Support to navigate sensory environments
- Assistance with executive function daily living tasks
- Employment support
- Support coordination to manage the cognitive load of service navigation

If the I-CAN tool cannot adequately capture these support needs, autistic participants will face reduced funding under the new framework - not because their needs have changed, but because the assessment tool is not fit for purpose. This cements the current trajectory of autistic NDIS participants who have had funding cut as there is not 'sufficient evidence' that the therapy support is building capacity.

Point-in-time assessments are particularly problematic for people with multiple disabilities, variable functioning and environmental factors that substantially affect daily life. This is precisely the case for many autistic people, whose support needs fluctuate based on environmental factors that an assessor in a single meeting cannot observe or understand.

Of particular concern is the fact that the amendments made to the NDIS Act 2013 in October 2024 do not require the Support Needs Assessor to review and include information from the participant's treating clinicians. Instead, the budget calculation will be entirely dependent on the Support Needs Assessment, which the NDIA plans to have conducted by mostly non-allied health professionals with limited or no experience and expertise in the participant's disability. The disability awareness training provided by the NDIA is extremely limited and general in nature. This training is inadequate for building the level of expertise needed to understand the nuances of how to assess the support needs of different disability cohorts.

## Full Testing and Validation Must Precede Implementation

SWAN strongly recommends that implementation of New Framework Planning be delayed until comprehensive validation studies have been completed and published for all population groups who will be assessed under the framework. This must include:

- Peer-reviewed research demonstrating I-CAN v6's validity and reliability for autistic people across the spectrum of presentations.
- Validation for people with psychosocial disability, degenerative disability, sensory disability, acquired brain injury, and complex or multiple disabilities.
- Validation for culturally and linguistically diverse participants, with demonstration that the tool is not culturally biased.
- Validation for First Nations peoples, developed in genuine partnership with First Nations disability organisations.
- Validation for rural and remote populations, acknowledging different service availability and support contexts.
- Analysis of the tool's ability to capture capacity-building support needs, not just daily living support needs.
- Transparency about how I-CAN scores translate into budget allocations through the budget method.
- Full testing of the entire New Framework Planning process with volunteer participants from all disability cohorts, different backgrounds and with intersectional needs - able to choose to keep their New Framework Plan budget or choose to remain on their Old Framework Plan budget.

Without this evidence, the disability community has no assurance that New Framework Planning will deliver the promised fair and consistent outcomes. The Independent NDIS Review was commissioned precisely because the current planning framework produces inconsistent and inequitable outcomes. Implementing a new framework built on an inadequately validated assessment tool, with unqualified and inadequately trained assessors, and without full testing of all processes with participants risks replicating these problems while making the outcomes harder to challenge.

## Assessor Qualification and Training Requirements

SWAN supports the requirement for support needs assessments to be conducted by qualified assessors. However, the rules must be more specific about minimum qualification requirements. The Explanatory Document on Plan Spending Rules states that assessors 'must have knowledge about different disabilities and understanding of different cultures', but provides no detail about how this will be ensured.

### SWAN recommends that the rules specify:

- Minimum qualification requirements for assessors, including relevant allied health registration and specific training in autism, psychosocial disability, degenerative disability, sensory and physical disability, intellectual disability and complex communication needs.
- Mandatory training in trauma-responsive practice, cultural safety, and intersectional approaches to disability.
- Requirements for assessors to have demonstrated expertise in working with the disability cohort they are assessing.

- Prohibitions on assessors having conflicts of interest, including financial interests in provider organisations.
- Participant rights to request a different assessor if there are concerns about cultural safety, disability expertise, or previous negative experiences.
- Independent oversight of assessor quality and complaints mechanisms when assessors fail to meet standards.

The What We Heard Summary Report documents concerns that ‘assessors without the right skills might not understand what people need’. This is particularly acute for autistic people, where assessor understanding of autism will fundamentally shape assessment outcomes. An assessor who understands autism as a deficit to be remediated will conduct a very different assessment than one who understands autism as a neurological difference requiring environmental accommodations and support.

Importantly, autistic people, people with acquired brain injury and others with complex communication needs commonly have difficulty interpreting questions about support needs in order to accurately respond to assessor questions. Unless Support Needs Assessors are appropriately experienced and trained to rephrase and explain questions, seek clarifying information, there is high risk of these cohorts receiving seriously underfunded budgets in New Framework Planning. Budgets which cannot be altered according to the NDIS Act, without another Support Needs Assessment conducted by NDIA staff – and likely to replicate the same issues at increased cost to review and re-administer.

## Assessment Report and Participant Rights

SWAN welcomes the requirement that participants receive a copy of their support needs assessment report. However, the rules must go further to ensure participants have meaningful opportunity to respond to and correct errors in assessment reports **before** they are used to determine budgets.

The Discussion Paper states that ‘if a participant has any concerns about the assessment report, the NDIA delegate will work with the participant to decide whether a replacement assessment is needed’. This places the burden on participants to identify errors and advocate for reassessment, rather than building quality assurance into the process from the outset.

### SWAN recommends:

- Participants must receive a draft assessment report and have a minimum of 14 days to review and provide feedback before the report is finalised.
- Participants must be able to identify factual errors or misrepresentations without needing to request a full replacement assessment, submit a S100 Internal Review or appeal through the Administrative Review Tribunal (ART).
- The assessor must be required to respond in writing to participant concerns and either amend the report or explain why the participant's concerns are not accepted.
- Participants must be able to include their own statement with the assessment report if they disagree with the assessor's characterisation of their support needs, and the right to submit reports from treating professionals if desired.
- Clear criteria must be established for when a replacement assessment is required, and participants must not be penalised for requesting reassessment.

This approach is consistent with the NDIS Review's explicit recommendation that 'needs assessment reports should be provided to the participant before it is finalised, including so the participant could correct or provide any information'. **The current proposal contradicts this recommendation.**

## Assessment Process for Regional and Remote Participants

The Discussion Paper states that assessments should happen 'where you are comfortable and want them to happen, such as in your home'. For many regional and remote participants, this is unlikely to be possible because assessors will not be available locally. While Support Needs Assessments may also be conducted via Microsoft Teams, the program lacks accessibility features, and virtual assessments are unsuitable for many participants. It's significantly harder to see and interpret body language signals, and unless assessors are operating multiple screens, the assessor may not be able to see the participant visually while conducting the assessment. This risks the assessor failing to notice participant's confusion; where participants are guessing answers, and where participants are trying to give the answer they think the assessor wants to hear, rather than the factual answer (a common trauma response in people with disability, particularly autistic people who have experienced Applied Behaviour Analysis).

Given that the NDIS legislation does not require Support Needs Assessors to review and consider evidence from the participant's treating clinicians, it is deeply concerning that the NDIA intends to recruit primarily non-allied health qualified staff with extremely limited and generalised knowledge about disability to conduct assessments on which NDIS participants' budgets will be determined – with extremely limited appeal rights and no safeguarding to ensure that participants are not worse off.

### SWAN recommends:

- Participants must be provided in-person Support Needs Assessments where preferred, regardless of geographic location.
- Support Needs Assessments must only be performed via video conference if not provided in-person, and only where preferred to in-person assessment by participant.
- Video conference based Support Needs Assessments must include accessibility features including captioning, Auslan and the use of interpreters as required by the participant. If accessibility features are not available or malfunctioning, the Support Needs Assessment must be immediately deferred to another time.
- Support Needs Assessments must not be performed via phone call. Phone calls reduce accessibility of processes, and it is critical that the Assessor be able to see the participant during the assessment.
- Where participants must travel to access in-person Support Needs Assessments, the NDIA must cover all costs including accommodation for the participant and any necessary support person.
- Assessors conducting assessments in regional and remote areas must have local community knowledge and/or experience of the community context, accessibility of supports and location specific needs.
- The budget method must include mandatory loadings for regional and remote participants to reflect the higher costs and reduced availability of services.
- The resulting NDIS plan must be sufficiently flexible that participants can access supports – with no funding locked into Stated Supports or Restricted to supports that are unavailable to the participant in that location.

# Budget Method Rules

## Transparency and Algorithmic Accountability

**The most significant concern SWAN and the wider disability community hold about the new framework is the lack of transparency about how support needs assessments will be translated into budget allocations.**

The Discussion Paper states that budgets will be calculated using a method prescribed in the National Disability Insurance Scheme (Reasonable and Necessary Budget Method) Rules and that 'more information on the budget method steps will be published to support this consultation process'.

**This information has not been published.**

The disability community is being asked to provide feedback on a planning framework without knowing how budgets will actually be determined. This is fundamentally inadequate consultation.

The What We Heard Summary Report documents that people said they 'do not understand how rules will decide funding or how I-CAN scores will be used in budget systems'. The Government's response has been to promise that the budget method rules will 'clearly outline how the NDIA works out a participant's funding' - but these rules have not been shared for consultation.

**SWAN strongly opposes the implementation of any algorithmic budget-setting method that is not fully transparent and publicly available for consultation before implementation.** The Independent NDIS Review recommended greater transparency in decision-making precisely because the current system's opacity has eroded participant trust and made it impossible to identify and challenge unfair outcomes.

Without transparency about how that budget will be determined and applied, participants cannot have confidence that their needs will be accurately recognised or met. This concern is heightened by the scale of this reform - it will affect every participant in the scheme over a five-year transition period – with inadequate appeal rights and no safeguarding to ensure participants are not worse off or placed at risk of harm by algorithm determined funding cuts.

## Concerns About Budget Adequacy

SWAN is concerned that the budget method, once revealed, will result in reduced funding for many participants - particularly those whose support needs are not well captured by standardised assessment tools.

The What We Heard Summary Report documents concerns that 'assessments might lead to plans that do not meet their needs'. These concerns are well-founded given the:

- History of NDIS funding cuts under previous reform attempts.
- Explicit policy goal of constraining scheme costs.
- Inadequate validation of the I-CAN assessment tool for diverse disability cohorts.
- Lack of transparency about how informal supports, age, geographic location and other environmental factors will be factored into budget calculations.

The Fact Sheet on Building a Plan states that budget method rules will cover 'how informal supports available to a participant are reflected'. This is deeply concerning. Participants should not have their NDIS funding reduced because they have family members or community connections who provide support. The NDIS is meant to be individually funded support, not means-tested based on the availability of unpaid care labour. A critical goal of the NDIS was to enable unpaid carers to return to the workforce, and this criteria rolls back that goal.

Autistic participants are particularly at risk. Many autistic people have limited informal support networks precisely because of the social and communication differences that characterise autism. If the budget method reduces funding based on assumptions about informal support availability, autistic participants will be doubly disadvantaged - their support needs may be underestimated by the assessment tool, and their budgets may be further reduced based on informal supports they do not have.

### Example Scenario

Thomas is an autistic young adult who has disengaged from school due to inadequate support and discrimination leading to feeling unsafe in the school environment. These issues triggered a loss of function, leading to Thomas and his family requiring significantly more funded supports to address his needs.

Assuming the availability and appropriateness of informal supports is already driving significant harms to participants in the form of inadequately funded plans. These assumptions fail to appropriately acknowledge whether informal supports are safe and free from violence, abuse and neglect (for example domestic violence and child abuse situations), and fail to appropriately assess the capacity of the informal supports. Heavy reliance on informal supports to provide unpaid support to participants triggers carer burnout and increases the risk of violence, abuse and neglect of NDIS participants, as well as additional stress to the participant who is made to feel like a burden to their family members.

### SWAN recommends:

- Complete transparency of the budget method, including publication of all algorithms, weighting factors, and decision rules for consultation and amendment before implementation.
- Independent analysis of the budget method by disability economists and disability representative organisations before implementation.
- Prohibition on reducing NDIS funding based on the availability of informal supports, except where the participant explicitly requests their informal supports be factored into planning.
- Mandatory and transparent testing periods to assess whether the budget method is producing adequate funding across different disability cohorts and geographic locations, with participants able to choose to move to the New Framework Plan or remain on the Old Framework Plan.
- Public reporting on budget outcomes by disability type, age, gender, cultural background, and location to enable identification of systemic inequities, with comparison data with Old Framework Plans.

# Flexible Funding and Stated Supports

## Overuse of Stated Supports

SWAN is extremely concerned that New Framework Planning does not provide the promised flexible budget recommended by the Independent NDIS Review. There remain too many categories of Stated Supports, and the NDIA will have the power to restrict some, most or all of the 'Flexible Budget'. The Explanatory Document on Stated Supports lists 13 categories of Stated Supports, specifically:

- Assistive Technology Assets
- Assistance Animals
- Support Coordination – participants must be able to use part of their flexible budget to access Support Coordination to navigate periods of additional, unexpected complexity and increased needs.
- Short Term Respite (STR) – The NDIA is not sufficiently nimble to respond to crisis situations where a participant needs urgent STR. STR must be accessible through the flexible budget, not just as a Stated Support.
- Behaviour Support
- Plan Management
- Specialist Disability Accommodation (SDA)
- Home Modifications
- Medium Term Accommodation (MTA)
- Private Vehicle Transport
- Residential Aged Care
- In-kind Supports

While some supports appropriately require specific allocation (such as SDA), the extensive use of Stated Supports undermines the flexibility that the Independent NDIS Review recommended. **The Review explicitly recommended that participants 'be provided with greater flexibility, with limited exceptions'**. Stated supports should be truly limited exceptions, not the default approach for any support that requires forward planning or higher-cost items. **We also note that some Section 10 Stated Supports, such as household repairs needed due to damage incurred as a result of the participant's disability has not been included, and raise concern about this omission.**

Many participants need the ability to adjust their spending between different support categories as their needs and circumstances change throughout their plan period. This is particularly important for:

- Autistic participants whose support needs may fluctuate based on environmental factors, sensory demands, or life transitions.
- Participants with degenerative disability.
- Participants with complex and/or episodic disability and fluctuating needs.
- Participants with psychosocial disability whose needs may vary depending on mental health status and environmental factors.
- Participants in regional and remote areas who may need to substitute one type of support for another when their preferred provider is unavailable.

The rigid categorisation of Stated Supports, combined with the already-restrictive Section 10 Rules for NDIS Supports that came into effect in October 2024 and the NDIA's implementation of default short funding periods without consideration of participant needs or preferences; creates multiple layers of inflexibility that compound each other. SWAN has

observed over the past 17 months how the Section 10 Rules combined with rigid, prescriptive plans and short funding periods have created unusable NDIS plans for many participants in regional WA - a situation that will be dramatically worsened if Stated Supports are implemented as proposed.

### SWAN recommends that the Department:

- Clarify where Stated Supports noted in the S10 Rule for 'NDIS Supports' fit in New Framework Planning, such as household repairs needed due to damage incurred because of the participant's disability. We note that this should not be a Stated Support, but should be taken from the flexible budget. The Support Needs Assessment will not be able to detect and account for household damage caused by disability which has not yet occurred.
- Ensure that participants can use the flexible budget to access Support Coordination if needed.
- Ensure that participants can use the flexible budget to access Short Term Respite in crisis situations.

### Restrictions on Flexible Funding

The Explanatory Document on Plan Spending Rules sets out extensive circumstances in which the NDIA can restrict flexible funding, requiring portions of the flexible budget to be spent only on specified supports. While SWAN acknowledges there may be limited circumstances where restrictions are appropriate safeguarding measures, such as where requested by the participant, we are extremely concerned the rules create too broad a discretion for the NDIA to impose restrictions – regardless of what will work for the participant or what their preferences are.

The rules allow restrictions where:

- The participant is likely to experience physical, mental or financial harm if funding is not restricted.
- The participant has not complied with acquittal requirements in previous plans.
- The participant requests restrictions.
- The participant needs capacity-building supports and is unlikely to access them without a restriction.
- The NDIA has directly commissioned a provider for the participant.

**Of particular concern is the provision allowing restrictions to ensure participants access capacity-building supports and where the NDIA has directly commissioned a provider for the participant.** The Explanatory Document states:

*'If a participant does not use certain supports (such as therapy) designed to positively impact their functional capacity, they may not achieve the intended outcomes of the support... Alternatively, failure to utilise supports that are needed to slow the decline in a participant's functional capacity may have long term implications for the participant.'*

This provision allows the NDIA to make paternalistic decisions about what supports participants *should* be using, overriding participant choice and control. It assumes the NDIA knows better than participants what supports will benefit them - an assumption directly

contradicted by decades of disability rights advocacy asserting that people with disability are the experts in their own lives.

### Example Scenario

Jamie 27 years old, diagnosed autistic and had Ehler's Danlos Syndrome (EDS). They requested funding for Psychology, Occupational Therapy and Physiotherapy. Instead, the NDIS delegate approved funding for four times the amount of therapy funding requested – allocated as Positive Behaviour Support and 20 hours per year for Occupational Therapy. Jamie is not aggressive to other people, and only engages in self harm once or twice per year during severe meltdowns. In making this decision, the NDIA delegate restricted the majority of Jamie's funding to a Stated Support he does not need and will not use.

SWAN strongly opposes this power to restrict the flexible budget. If a participant is not using therapy supports, the appropriate response is to:

- Contact the participant to ask what barriers are preventing their use of therapy supports. For example, a female sexual assault survivor may feel unsafe to use therapy supports where the only available provider is male.
- Ensure the participant understands what therapy supports are available and how to access them.
- Check with the participant if therapy supports are actually available in their location – in a format accessible to them (note that telehealth is not suitable for all participants).
- Provide support coordination or navigator assistance to help the participant find appropriate therapists.
- Review whether the therapy supports currently funded are actually meeting the participant's needs and preferences.
- **Respect the participant's decision about their own support priorities.**

For autistic participants specifically, this provision is particularly problematic. Many autistic people have had negative experiences with therapy services that were not neurodiversity-affirming or that prioritised compliance and normalisation over wellbeing. An autistic participant who chooses not to use allocated therapy funding may be making an informed choice about what supports are actually beneficial for them - not failing to understand the value of therapy.

We note that the majority of participants and families seek therapy supports to meet their needs. Restrictions on the flexible budget are not required, and this power is not in-line with the Independent NDIS Review's recommendations.

SWAN also hold grave concerns about the provisions for NDIS to stipulate a specific provider in participant plans. This is a direct breach of choice and control and risk to the participants' safety. Where a participant is not able to easily change provider, they are at higher risk of experiencing violence, abuse and neglect. Without meaningful choice of provider, participants are unable to complain about poor, unfair or harmful treatment due to risk of losing critical supports. We strongly oppose the Government's intention to address market shortages by block funding or 'direct commissioning' specific providers and stipulating the use of these providers in participant plans.

### SWAN recommends:

- Remove the provision allowing restrictions to ensure access to capacity-building supports.
- Narrow the harm-prevention grounds to apply only where there is documented evidence of imminent risk, not speculative future risk.

- Require that restrictions based on previous non-compliance with acquittal requirements be time-limited and subject to review.
- Ensure participants can request removal of restrictions at any time, not only at plan review.
- Require that any restriction be the least restrictive option available, with the NDIA obliged to consider less restrictive alternatives first.
- Ensure that a specific provider may only be stipulated in a participant's plan if requested by the participant.

## Requirements on Provision or Acquisition of Supports

The Explanatory Document on Plan Spending Rules also sets out circumstances where the NDIA can impose requirements on how supports are acquired or provided - such as requiring quotes, requiring supports be provided by particular types of providers, or requiring specified processes be followed.

SWAN accepts that some requirements are appropriate, particularly for high-cost or high-risk supports such as home modifications or complex assistive technology. However, the rules must ensure requirements are genuinely necessary and do not become barriers to accessing support.

SWAN is particularly concerned about the provision allowing the NDIA to require supports be provided by a specified provider where the NDIA has commissioned that provider, particularly in regional and remote communities. While SWAN understands the NDIA's market intervention activities in thin markets, these arrangements must not breach human rights by override participant choice or lock participants into providers that are not meeting their needs.

### SWAN recommends:

- Requirements must be limited to circumstances where they are genuinely necessary for participant safety.
- Requirements must not be used to limit participant choice between providers.
- Where the NDIA has commissioned a provider in a thin market, participants must retain the right to choose an alternative provider if the commissioned provider is not meeting their needs, with the NDIA responsible for ensuring alternative options are available.
- The NDIA must consult with participants before imposing requirements, not only notify them after the fact. Imposed requirements must only be made where requested by the participant.

## Funding Periods

The Explanatory Document on Plan Spending Rules sets out that funding periods can be imposed on both flexible funding and stated supports, with the duration and allocation of funding to different periods determined based on participant circumstances.

SWAN acknowledges that funding periods can be an appropriate safeguarding measure for a small number of participants. However, short funding periods must not be the default approach as is currently the case. They reduce flexibility and can prevent participants from

accessing supports when they need them, particularly those with fluctuating or episodic needs. Importantly, short funding periods increase risk of harm to participants, and we note that unacceptably high numbers of participants have been hospitalised due to default short funding periods being imposed on them, and [at least one participant has died](#).

The Explanatory Document states that one reason for funding periods is 'to assist participants to spend within the limits of their plan so that they do not run out of funding before the end of their plan, leaving them without supports. This is particularly important with the transition to longer-term (up to 5 year) plans'.

This rationale suggests the NDIA expects participants will struggle to manage longer plans - but the solution is not to impose more restrictions. The solution is to a set default funding period of 12 months, with shorter funding periods applied at the request of participants or where there is a proven record of overspend without appropriate reason. This solution was repeatedly recommended to the NDIA by Disability Representative and Carer Organisations (DRCOs), the Independent Advisory Council (IAC), Participant Reference Group (PRG) and the Better Planning Working Group, with all advice and concerns about the risks of harm to participants ignored by the NDIA. Further, the provision of adequate Support Coordination or Navigator Support to help participants manage their budgets, including regular check-ins and early intervention if a participant is underspending or overspending are more appropriate safeguards which were also recommended during the consultation on funding periods.

The NDIA's own data shows that short funding periods are consistently being applied broadly and causing significant harm. Data shared with Disability Representative and Carer Organisations indicates that 95% of participants who currently have funding periods applied have at least one budget component set at a three-month interval. 79% have one month funding periods applied to at least one budget component, and only 3% have six-month funding periods applied. This clearly shows that short funding periods of three months or one month are consistently being implemented as default by the NDIA – against the requirements of the NDIS Act, which requires consideration of the participant's preferences. At SWAN, and further through our partnership with Every Australian Counts, we have yet to encounter a single NDIS participant who likes or wants three month or one month funding periods.

Short funding periods create particular problems for supports with irregular costs. While NDIA can front-load funding in plans, this process is poorly understood and inadequately implemented by NDIA staff. Further, short funding periods fail to accurately incorporate public holidays and additional Saturdays and Sundays in a month or quarter. If funding is only released in small increments, participants cannot meet initial costs or face delays in accessing the support.

The case of Koa Gibson, presented to the [Joint Standing Committee in 2025](#), demonstrates the potential tragic consequences of inflexible funding periods. Funding period restrictions prevented timely access to nursing care when her mother became unwell, and Koa, a four-year-old child, died. Administrative restrictions can have serious consequences when participants and families face sudden changes in circumstances. The NDIA is not now, and never will be, sufficiently nimble to respond to changes in circumstances within the 24-48 hours that crises require. Instead, participants commonly face wait times of six months to more than 12 months for S48 plan change requests to be actioned.

## SWAN recommends:

- Funding periods should be set to a default of 12 months, except where the participant requests shorter or where there is documented evidence of overuse, or where previous plans have demonstrated the participant requires this support.
- Short funding periods must not be imposed on participants with episodic or fluctuating conditions without clear evidence that shorter periods will benefit rather than restrict the participant.
- One month funding periods must only apply to plan management and Specialist Disability Accommodation (SDA).
- Participants must be able to request variation of funding periods at any time, not only at plan review.
- The NDIA must provide support from Support Coordinators or Navigators to help participants manage longer plans without imposing short funding periods.

## Therapy Supports and Domain Alignment

SWAN hold serious concerns regarding the proposed approach to defining therapy supports through domain alignment with the I-CAN assessment.

The Discussion Paper on Defining Therapy Supports proposes categorising therapy into 'general', 'social', and 'physical and health related' categories, linked directly to domains identified through the I-CAN assessment. This approach is fundamentally problematic, given that I-CAN is not validated for this purpose and has not been tested. SWAN is deeply concerned that this approach is yet another attempt to restrict or prevent the promised flexibility of NDIS plans.

## Incompatibility with Contemporary Practice

**Best practice therapy is goal-directed, dynamic, and cross-domain.**

A participant's goal to parent safely, to return to work, or to participate in community life cannot be meaningfully reduced to discrete subdomains such as mobility, interpersonal relationships, or learning and applying knowledge.

For autistic participants, this is particularly acute. People with disability do not fit into neat little boxes – and best practice therapy is multidisciplinary – not siloed by arbitrary, bureaucratic decisions regarding 'duplication of supports'. Many therapeutic interventions for autistic people necessarily address multiple domains:

- Social communication therapy supports both interpersonal relationships and community participation.
- Occupational therapy for sensory regulation affects both daily living skills and emotional wellbeing.
- Support for executive function impacts employment, education, and daily task management.

Rigid categorisation of therapy by domain will:

- Constrain clinical reasoning.
- Restrict evidence-based practice.

- Limit flexibility in thin markets -particularly problematic in regional WA where participants often cannot access the therapy type stipulated in their NDIS plan(s).
- Reduce participant choice.
- Create administrative burden for therapists who must justify cross-domain interventions.

## Assessment Tool Not Validated for This Purpose

Using I-CAN to determine therapy categories is ‘an entirely novel way to use the I-CAN assessment tool. It has never been used, piloted, or trialled in any context to determine therapy categories or therapy eligibility.

The I-CAN tool:

- Contains no set or standardised questions.
- Has no structured focus on capacity measurement.
- Does not embed a theory of change regarding improving, maintaining or reducing decline.
- Relies heavily on assessor skill (who may not be clinically qualified) to ask the right questions.
- Relies equally on the participant's ability to understand and articulate needs. Participants with difficulties with receptive and reciprocal language skills will particularly struggle with this approach.

**There is no published evidence demonstrating that I-CAN can reliably identify therapy support needs or determine which therapy category applies.** Therapy categorisation is inherently a clinical decision requiring professional reasoning, an understanding of intervention mechanisms, and analysis of how functional capacity can change over time.

## Systemic Risk and Precedent

If therapy access is determined primarily by alignment with assessment domains rather than holistic functional analysis and goal-directed need, the same structural logic may be applied to:

- Assistive technology
- Behaviour supports
- Employment supports
- Capacity building more broadly
- Support for community participation

This would represent a fundamental shift from a goal-directed, reasonable-and-necessary model to a domain-classified allocation model - a shift inconsistent with the NDIS Act's emphasis on participant goals and aspirations.

### SWAN strongly recommends:

- Reject the proposed domain-based categorisation of therapy supports.
- Maintain therapy as a goal-directed support determined by clinical reasoning and participant needs.

- Ensure any approach to defining therapy supports preserves clinical discretion and recognises cross-domain skill development.
- Do not proceed with using I-CAN to determine therapy categories unless and until it has undergone independent validation for this specific purpose.

## Regional and Remote Considerations

SWAN's March 2024 submission to the Joint Standing Committee inquiry into NDIS participant experience in rural, regional and remote Australia extensively documented the barriers and inequities faced by regional and remote participants. These include:

- Extremely limited availability of disability service providers, particularly allied health professionals and specialist services.
- Higher costs for services due to travel requirements and lack of competition.
- Reduced choice and control due to limited provider options.
- Difficulty accessing culturally appropriate services.
- Barriers to using NDIS funding due to long waitlists and provider shortages.
- Lack of NDIA understanding of regional and remote contexts.

**The New Framework Planning rules do not adequately address any of these systemic issues.**

The Explanatory Document on Plan Spending Rules briefly mentions that 'remoteness loadings **may** be applied as adjustments to budgets, but provides no detail about how these will be calculated or applied. Critically, there are many locations with no local services and distances exceeding 90-150km from the nearest service location, which are not rated remote. The new rules must consider accessibility of support in MMM-4 and MMM-5 locations.

## Budget Method Must Include Regional and Remote Loadings

The budget method must include **mandatory** loadings for regional and remote participants to reflect:

- Higher costs of services due to provider travel and lack of local competition.
- Need for additional travel support to access services in regional centres.
- Additional coordination and planning costs due to limited provider availability.
- Need for more flexible funding to enable innovative support arrangements in thin markets.

These loadings must be applied automatically based on participant location, not require participants to request or justify them.

### Case Study: The Reality of Regional Service Access

Jamie (name changed) lives in a small MMM-5 town located 122km from the nearest registered therapy provider. Prior to the NDIS pricing changes implemented 1<sup>st</sup> July 2025, Jamie's NDIS plan was charged \$703.97 for one hour of therapy by an NDIS registered provider instead of \$193.99 per hour if there was a locally based therapist he could use.

Jamie's NDIS plan did not include funding for the therapist's travel costs, so he received only one hour of therapy instead of the 3.63 hours of therapy he would receive if he lived in

the same town as the provider. Effective 1<sup>st</sup> July 2025, the provider ceased service provision to Jamie's location, and Jamie lost access to all therapy. Jamie's family have been trying to move closer to providers in order to increase his access to services since 2021, but have been unable to secure accommodation due to the housing crisis.

This example illustrates why regional and remote loadings must be built into the budget method (considerate of isolated MMM-4 and MMM-5 locations), not left as discretionary adjustments.

## Assessment Process Must Accommodate Regional Context

As noted earlier, support needs assessments for regional and remote participants must accommodate:

- Limited availability of local assessors.
- Need for accessible video-conference assessment options.
- Assessor understanding of how regional and remote contexts affect support needs.
- NDIA coverage of travel costs where participants must travel for assessment.

## Service Availability Must Be Factored Into Planning

The rules must explicitly require the NDIA to consider service availability when making decisions about stated supports, restrictions, requirements, and funding periods.

The Explanatory Document on Plan Spending Rules states that the CEO 'must consider the availability of NDIS providers to provide the NDIS supports that would be the subject of the restriction'. This principle must be applied consistently across all aspects of planning.

It is inequitable to:

- Restrict a participant's flexible funding to be spent on therapy supports if no therapists are available in their location.
- Impose requirements that supports be provided by particular types of providers if those providers do not exist in the participant's region.
- Create Stated Support categories that cannot be accessed due to provider shortages.
- Explicitly state in a participant's NDIS plan that they are required to use a specified provider without the participant's consent.

Since the Section 10 Rules came into effect in October 2024, SWAN has seen a dramatic increase in unusable NDIS plans for participants in regional WA.

### Example Scenario: Unusable NDIS Plans in Regional WA

Parker is a 9-year-old autistic NDIS participant living in regional WA. He received his first NDIS plan after the legislation changed, which included Capacity Building (Improved Daily Living) funding for an Occupational Therapist and Speech Pathologist only, with a plan duration of 12 months. Due to the way PACE operates and the requirement that NDIS participants spend in accordance with their plan, this funding is a Stated Support with no flexibility.

**The wait time to access an Occupational Therapist and Speech Pathologist where Parker lives exceeds 18 months, rendering his NDIS plan completely unusable.** Parker would benefit from Psychology to support emotional regulation, executive functioning and

theory of mind development, and potentially Physiotherapy supports to improve balance, coordination, gross and fine motor skills – but is unable to do so with the prescriptive Stated Supports preventing the flexibility he needs.

SWAN sees this issue impacting NDIS participants and their families every single week since the legislation changed. The issuing of unusable NDIS plans artificially reduces the overall cost of the scheme while driving people with disability and families into crisis due to lack of needed supports.

We have repeatedly raised the issue with the NDIA senior executive, with no action taken to address the issue until November 2025. While NDIS Plans issued since November 2025 no longer have this issue, all NDIS plans issued between October 2024 and November 2025 include overly prescriptive and restrictive therapy budgets that are rendered unusable in many cases. Of note, NDIA are routinely issuing plan continuations rather than reassessing plans, so this issue is likely to remain unresolved for affected participants until they transition to New Framework Planning.

If the New Framework Planning rules create more stated supports and more restrictions on flexible funding, this problem will be dramatically worsened. Regional and remote participants will have funding they cannot access, while being prevented from using that funding flexibly to access whatever appropriate supports are available in their location.

## **Direct Commissioning and Block Funding Must Not Override Choice**

SWAN acknowledges the NDIA's market intervention activities in thin markets, particularly in remote First Nations communities. However, these arrangements must not become a mechanism to override participant choice and control.

The Explanatory Document on Plan Spending Rules states that the NDIA may restrict flexible funding or impose requirements to give effect to commissioning arrangements where the NDIA has contracted a provider to deliver services to a group of participants. While SWAN understands the practical necessity of these arrangements, we are concerned they may:

- Lock participants into providers who are not meeting their needs.
- Prevent participants from accessing alternative providers even when available.
- Create conflicts of interest where the NDIA is both funder and contract manager.
- Reduce transparency and accountability in thin markets.
- Reduce participant safety – where participants are not able to move to a different provider easily, there is increased risk of experiencing violence, abuse and neglect, and reduced likelihood of being able to complain (due to actual or perceived risk of losing necessary supports).

Not only can this power be easily misused, but it's highly likely that participants may be forced to engage with providers that do not have appropriate expertise in their disability type. Therapists, for example, may not have sufficient experience or have appointment times available that fit with the participants needs, or there could be personality clashes. NDIS Participants have the same right as non-disabled Australians to work with providers they feel comfortable and safe with. Another risk, is that a female participant may feel safer with a female therapist but only have access to a male therapist, etc.

### Example Scenario 1

June is 31 years old and has Cerebral Palsy and a mild Intellectual Disability. June has no informal supports, and is a survivor of sexual assault by a man. She had a longstanding and trusted relationship with a female Support Coordinator over the past 5 years. June has no other informal supports. The NDIA reassesses June's NDIS plan, and the delegate decides to specify that June must use a different Support Coordinator which they name in the NDIS Plan. The trusted relationship and support that June relied on is broken, and she is forced to engage with a new, male Support Coordinator, triggering a trauma response and severe distress. As a result, June ceases engaging with services that she needs to stay safe, due to the conduit to access those services feeling unsafe.

### Example Scenario 2

Ben is 19 years old and has Down Syndrome and autism. His family stopped using a local registered provider after discovering that Ben's support worker had been transporting him in a car that had four mice running around free in the vehicle. Ben's parents helped the support worker clean out the leftover food wrappers in the car, catch the mice, and prompted the support worker to clean up the mouse droppings from the car. They were disturbed by the lack of hygiene and health risk to Ben, and lodged a complaint to the provider and ceased using them as they felt that the response to the complaint was inadequate. Ben's NDIS plan was then reassessed, and a NDIA delegate decided to stipulate in the plan that Ben must use the registered provider they had previously lodged a complaint to and ceased services with. Ben and his family are extremely distressed and fearful of repercussions by being forced to use a provider they have previously had negative experiences with and lodged a complaint against.

### SWAN recommends:

- Commissioning arrangements must be co-designed with participants and local disability communities, not imposed by the NDIA. Direct commissioning must only be used as a last resort.
- Participants must not be forced to use providers that do not have experience in their disability type, or are otherwise unsuitably skilled to meet their needs.
- Participants must retain the right to choose alternative providers if the commissioned provider is not meeting their needs, rather than the provider being mandated by NDIA.
- The NDIA must be required to ensure alternative options are available, not use commissioning arrangements as an excuse for lack of choice.
- Regular independent evaluation of commissioned services must be conducted with participant feedback central to evaluation.
- Participants in commissioned service arrangements must have access to independent advocacy to raise concerns about service quality without fear of losing access to support.

## Transition Arrangements

The Discussion Paper states that the New planning approach will start from mid-2026 for some participants who are over the age of 16 and will be 'a phased introduction so many participants will not experience any change for some time'. The Explanatory Document on Transition to New Framework Plans indicates the transition will occur over a five-year period.

While SWAN supports a gradual transition, we are extremely concerned the current timeline for commencement is far too rushed to be rolled out safely, the transition plan of 5 years is too short and does not provide adequate safeguards for participants during transition.

## Transition Timeline Concerns

The Independent NDIS Review recommended that participants should have ‘at least two years before you are asked by the NDIA to meet any new requirements for access or to complete a support needs assessment’. However, the new framework is planned to begin implementation from mid-2026 - less than 6 months from when the consultation materials were released.

This does not allow sufficient time for:

- Comprehensive validation of the I-CAN assessment tool, Personal and Environmental Circumstances Questionnaire (PECQ) and budget calculation method with diverse populations.
- Development and publication of transparent budget method and all New Framework Planning Rules for consultation.
- Co-development of appropriate standards with disability community, then training of assessors to those standards.
- Development of adequate Navigator and Support Coordination capacity.
- Co-design of implementation processes with the disability community, as promised.
- Establishment of independent oversight mechanisms.

**SWAN recommends the transition timeline be extended to allow proper preparation and testing before the new framework is implemented.**

## Support During Transition

All participants transitioning to New Framework Plans must receive mandatory support, including:

- Clear, accessible information about the New Framework and how it differs from current planning.
- Practical information about what the changes mean and how they will directly affect participants, in Plain English, Easy Read, Auslan and translated into other languages.
- Access to independent advocacy to assist with understanding the new process and rights.
- Support Coordination or Navigator assistance to help prepare for the support needs assessment.
- Clear explanation of how their budget has been calculated under the new method and how it compares to their previous plan.
- Rapid access to review processes if their new plan does not meet their support needs.

Further to the above, SWAN have specific recommendations about how the transition pathway should work:

- Re-name ‘Impairment Notices’ to use a more respectful term in alignment with the social model of disability. The notice should quote the relevant part of the legislation, without using the legal term.

- Ensure that 'Impairment Notices' list all diagnoses / disabilities that were deemed to meet eligibility requirements, not just the impairment category/ies that the NDIA has assigned to the participant.
- Participants must be provided with 'Impairment Notices' as the first step, at least 3 months prior to transitioning. SWAN has previously conducted surveys across multiple NDIS peer support groups, and found that at least 80% of NDIS participants have never had a NDIS representative check that the information in their NDIS file is correct. Given that large numbers of NDIS participants transferred from state and territory based disability systems to NDIS, and that the information shared was notoriously flawed, participants must be provided a minimum of three months to understand, gather evidence and make corrections to their Impairment Notices.
- Where participants identify that the information on their file is not correct, transition to New Framework Planning must be paused until the information is corrected.
- Once disability information is confirmed to be correct, the preparation meeting may then be scheduled at a time that suits the participant. Participants must be offered options for when the preparation meeting will occur, and the meeting must occur in the participant's preferred format (in-person or video-conference).
- During the preparation meeting, the conversation should include discussion about the complexity of issues the participant and family are dealing with. This is critical to ensure that timing of transition to New Framework Planning does not negatively impact the participant and their family, and that participants with complex needs are not transitioned before processes have been sufficiently tested and developed to address complex needs. Participants must be provided a workbook to help prepare for the Support Needs Assessment (not compulsory), and be provided an example Support Needs Assessment report and plan, so that they know what to expect.
- Once the NDIA and participant are mutually satisfied that they are ready to transition to New Framework Planning, the NDIA should then issue the Notice of Transition to New Framework Planning. This step must be as late in the process as possible, given that once this step occurs, the participant is unable to remain on Old Framework Planning.
- The participant must then receive options for scheduling the Support Needs Assessment (when, where and how – including breaks as needed), and options for Support Needs Assessor which briefly details their qualifications, experience and gender identity.
- During the Support Needs Assessment, participants must be able to see what the Assessor is recording. For blind and vision-impaired participants, the system must be able to read out what the Assessor has recorded.
- After the Support Needs Assessment, participants must receive the draft report, with the opportunity to have errors corrected before the report is submitted and the budget is calculated.
- The participant must then have a meeting with the NDIA delegate finalising the plan, either in-person or via video-conference (rather than phone call), to finalise the NDIS Plan. New Framework Planning rules must carefully stipulate evidence and consent required before restricting the flexible budget and prescribing specific providers and supports. This includes checking that Stated Supports are actually available in the participant's location.
- The participant must then have the right to request a new Support Needs Assessment through the S100 Internal Review. Where a participant has received a New Framework Plan with significant funding cut of 15-20% or more, the Internal Review must be fast-tracked by NDIA. The Internal Reviewer must engage directly with the participant, with no decisions made without direct engagements (unless the participant has explicitly requested no contact). NDIA must monitor and publicly

report on Internal Review requests in New Framework Planning, along with the outcomes of these Internal Reviews – with additional tracking and reporting on the volume proceeding to ART appeals and the outcomes of those appeals.

- If the Internal Reviewer decides not to order a new Support Needs Assessment, the participant must retain the right to appeal to the Administrative Review Tribunal (ART). The ART must be able to order the provision of specific supports to the participant in the same way that occurs under Old Framework Planning, and the ART must be able to order an independent Support Needs Assessment be completed by an independent allied health professional external to the NDIA. ART outcomes must be monitored and reported transparently over the first five years + in order to track the effectiveness of the initial Support Needs Assessments, the rate of appeals etc.

## Protection Against Funding Reductions

SWAN is deeply concerned that the transition to New Framework Planning will result in funding reductions for many participants, and that these budgets will not meet participant's individual needs.

The rules must include explicit protections against transition-related funding cuts. Where a participant's new framework plan allocates less funding than their previous plan, the NDIA must:

- Provide a clear written explanation of why the budget has changed, including specific reference to changes in assessed support needs or changes in methodology.
- Clearly demonstrate that the budget reduction is based on reduced support needs, not merely a change in assessment approach.
- Maintain previous funding levels while any review or appeal of the new plan is underway.
- Conduct a timely replacement assessment if the participant can demonstrate the initial assessment did not accurately capture their support needs.

## Reviews and Appeals

The Fact Sheet on Reviews and Appeals states that participants can seek internal review or Administrative Review Tribunal (ART) review of all aspects of their plan, including whether their budget was developed in accordance with the rules, decisions about plan management, and funding periods. Participants can also request a replacement needs assessment as part of their review request.

While SWAN welcomes the confirmation that most review rights are preserved, we are extremely concerned the new framework will make reviews more difficult and less effective, reducing safety and increasing risk that participants' needs will not be met. There is serious risk that participants with under-funded NDIS plans will be placed in hospital unnecessarily, and increased risk of people with disability experiencing violence, abuse and neglect as a result of inadequate funded supports.

## Complexity of Challenging Algorithmic Decisions

As budgets will be set by an algorithm based on support needs assessment scores, challenging budget adequacy will require:

- Understanding how the algorithm works.
- Identifying errors or limitations in the support needs assessment.
- Demonstrating that the algorithm has not properly accounted for specific circumstances.
- Arguing that the algorithm itself is flawed or inappropriate for the participant's disability type.

This is significantly more complex than challenging a plan delegate's decision under the current framework. It places substantial burden on participants to understand technical systems and shifts decision-making away from individualised consideration toward standardised application of rules.

Where funding amounts are primarily determined by the Support Needs Assessment (SNA), and the SNA cannot be directly appealed, participants will have limited ability to challenge plans that do not reflect their needs'. This creates a significant barrier to review.

## Barriers to Accessing Reviews

The What We Heard Summary Report documents concerns about people wanting 'quick reassessments and reviews' and 'clear information about decisions'.

SWAN's 2023 submission to the Independent NDIS Review documented systemic problems with the NDIA's internal review process, including:

- Long delays in reviews being conducted.
- Reviews being conducted without contact with the participant.
- Review decisions that fail to address the participant's concerns.
- Lack of transparency about the basis for review decisions.

These systemic problems must be addressed **before** the New Framework is implemented. Otherwise, participants will face the double burden of navigating a more complex planning framework while also facing barriers to challenging inadequate plans.

### SWAN recommends:

- Independent review of the S100 Internal Review process to ensure it is timely, accessible, and fair.
- Mandatory contact with participants as part of Internal Review, unless the participant explicitly requests otherwise.
- Clear requirements for Internal Review decisions to address each reason for review raised by the participant.
- Accessible pathways to Administrative Review Tribunal review, including provision of NDIS funding for legal representation for participants who cannot otherwise afford it.
- Regular public reporting on Internal Review outcomes data, including timeliness, outcomes, and reasons for decision. Data tracking must include quantitative and qualitative data, with the NDIA actively tracking feedback on the participant experience of S100 Internal Reviews to improve procedural fairness. There must be continuous monitoring, clear guidelines on scheduled reviews of processes and actions taken to improve procedural fairness and outcomes for participants.

## Consultation Process Concerns

SWAN wishes to place on record our concern about aspects of this consultation process. While the Department has released several consultation materials, critical information has been withheld - most notably, the budget method that will determine how support needs assessments translate into funding allocations and exposure drafts of all rules.

The What We Heard Summary Report documents that the disability community felt 'consultation processes were not transparent and felt tokenistic' and that 'some decisions are made before consulting'. SWAN shares these concerns, and see no evidence to the contrary.

The decision to proceed with I-CAN assessments was made before meaningful consultation on the appropriateness of this tool occurred. The budget method is likewise being developed without community input – despite promises of co-design. The overall framework structure is presented as largely settled, with consultation focused on refinement rather than fundamental design.

Genuine co-design requires that the disability community be involved in decision-making from the outset, not asked to provide feedback on decisions already made. The Independent NDIS Review recommended a different approach to consultation, with extensive community engagement throughout the reform process and genuine responsiveness to community concerns.

### SWAN calls on the Department to:

- Release the complete budget method rules for consultation and amendments based on community feedback before any implementation.
- Release exposure drafts of all New Framework Planning Rules for consultation and amendments based on community feedback before implementation.
- Extend consultation timeframes to allow meaningful community engagement once all relevant information is available.
- Demonstrate how feedback from this consultation has influenced the rules produced.
- Commit to ongoing co-design with disability community representatives as the framework is implemented and refined.

# Recommendations Summary

## Support Needs Assessment

1. Delay implementation of New Framework Planning until I-CAN v6, PECQ and the budget method have been independently validated for autistic people, psychosocial disability, degenerative and sensory disability, intellectual disability, complex communication needs, First Nations communities, CaLD communities and regional/remote populations.
2. Publish peer-reviewed validation evidence for I-CAN v6, including its capacity to capture capacity-building needs, not just daily living support needs, and its use in determining budgets.
3. Fully test the entire New Framework Planning process with volunteer participants from diverse disability cohorts, allowing them to choose to keep their New Framework plan or remain on their Old Framework plan.
4. Specify minimum qualification requirements for Support Needs Assessors, including relevant allied-health registration (for clinical assessors), people with disability, First Nations and CaLD assessors, and mandatory training in autism, psychosocial disability, degenerative and sensory disability, intellectual disability and complex communication needs, trauma-responsive practice and cultural safety.
5. Require that Support Needs Assessors demonstrate expertise in the disability cohort they assess, have no conflicts of interest, and are subject to independent quality oversight and accessible complaints mechanisms.
6. Require that participants receive a draft Support Needs Assessment report, with at least 14 days to review and correct errors or add a personal statement and treating-team evidence, before it is finalised and used to calculate budgets. Note that if the report is posted to the participant, the review period must be extended to four weeks.

## Assessment Modality and Accessibility

7. Guarantee that participants can have an in-person Support Needs Assessment wherever they live, where this is their preference, with the NDIA covering all reasonable travel and accommodation costs for the participant and any required support person.
8. Permit video-conference (e.g. Microsoft Teams) assessments only where the participant prefers this to in-person assessment, and require that captioning, Auslan and interpreter support be available and functioning for the assessment to proceed.
9. Prohibit phone-only Support Needs Assessments, except where a blind or vision-impaired participant explicitly requests this format, and even then, only with appropriate adjustments.
10. Require that assessors conducting assessments in regional and remote areas have local community knowledge and training in how service availability, geography and culture impact support needs.

## Budget Method

11. Publish the complete budget method – including all algorithms, weighting factors and decision rules – for consultation, amendment and independent analysis by disability economists and disability representative organisations **before** implementation.
12. Prohibit reducing NDIS funding on the basis of assumed informal supports, unless the participant explicitly asks that informal support be factored into planning, and only where this is safe and sustainable.

13. Build in mandatory, automatic regional and remote loadings in the budget method (including isolated MMM-4 and MMM-5 locations) to reflect higher costs, travel, coordination demands and thin markets.
14. Establish transparent testing periods where participants can opt into New Framework Plans, compare outcomes with their previous plans, and move back if the new budget is inadequate.
15. Publish annual public reports comparing New Framework and Old Framework budgets by disability type, age, gender, culture and location, to identify systemic inequities.

### **Flexible Funding, Stated Supports and Restrictions**

16. Limit Stated Supports to genuine exceptions (e.g. SDA, major home modifications, complex assistive technology) and ensure key supports such as Support Coordination and Short Term Respite can be accessed from flexible budgets when needed.
17. Clarify the treatment in New Framework Plans of Stated Supports contained in the Section 10 Rules (e.g. disability-related household repairs), and allow these to be funded flexibly rather than locked in as Stated Supports.
18. Remove the power to restrict flexible budgets in order to force the use of capacity-building supports (such as therapy), and instead address non-use through engagement, barrier-identification and support coordination.
19. Tighten harm-prevention grounds so restrictions can only be imposed where there is clear, evidence-based, imminent risk that cannot be managed by less restrictive options.
20. Require that any restriction or requirement be time-limited, regularly reviewed, demonstrably the least restrictive option, and revocable at the participant's request.

### **Direct Commissioning and Provider Choice**

21. Require that direct commissioning and block-funding arrangements be co-designed with participants and local disability communities, and used only as a last resort in thin markets.
22. Prohibit NDIA from mandating a particular provider in a participant's plan except where the participant explicitly requests this in writing.
23. Guarantee that participants in commissioned arrangements can change providers where they feel unsafe, unheard or poorly served, with the NDIA responsible for ensuring alternative options.
24. Require regular independent evaluation of commissioned services, with participant feedback central, and guarantee access to independent advocacy for participants in commissioned arrangements.

### **Funding Periods**

25. Set a default funding period of 12 months for all budget components, with shorter periods applied only at the participant's request or where there is clear evidence of persistent overspend without reasonable cause.
26. Restrict the use of one-month funding periods to plan management and SDA only, and prohibit very short periods for participants with episodic, fluctuating or complex needs unless there is clear evidence this is beneficial and preferred.
27. Require the NDIA to provide adequate Support Coordination or Navigator support as the primary safeguard for budget management, rather than defaulting to short funding periods.

## Transition

28. Extend the transition commencement and overall five-year timeframe so that no participant is required to move to New Framework Planning until tools, rules and budget method are validated, published and tested.
29. Require a staged transition pathway that includes: impairment notices listing all disabilities used for eligibility, time to correct NDIA records, a preparation meeting, participant choice about timing and modality of assessment, visibility of what assessors record, draft assessment reports, and a final planning meeting with the delegate.
30. Include explicit safeguards against funding reductions on transition: written reasons for any reduction, demonstration that needs (not methodology) have changed, maintenance of previous funding during reviews, and timely replacement assessments where needed.

## Reviews and Appeals

31. Reform the S100 Internal Review process so it is timely, accessible and procedurally fair, with mandatory contact with participants unless they opt out and decisions that address each ground raised.
32. Ensure that participants can effectively challenge budgets set by algorithms, including by obtaining independent assessments and expert evidence, and by providing public information about how the algorithm operates.
33. Provide funded access to independent legal representation for participants seeking ART review who cannot otherwise afford it, and publish regular data on Internal Review timeliness, outcomes and participant experience.

## Consultation, Co-design and Oversight

34. Release exposure drafts of all New Framework Planning Rules – including the Budget Method Rules and any rules about therapy supports – for public consultation and amendment based on community feedback **before** implementation.
35. Establish an independent oversight mechanism, with strong representation from DPOs and DRCOs, to monitor implementation, equity of outcomes and unintended harms, and to recommend changes.
36. Commit to ongoing, genuine co-design and co-development with people with disability and their representative organisations for all future changes to assessment tools, budget methods, planning rules and commissioning arrangements.
37. Commit to prioritising employment of people with disability in New Framework Planning.

## Conclusion

SWAN acknowledges the extensive work undertaken by Government, the NDIA and stakeholders to develop the New Framework Planning rules, and we share the goal of a more consistent, transparent and fair planning system. However, the framework as currently proposed falls far short of that goal. It relies on an inadequately validated assessment tool, places excessive weight on algorithm-driven budget setting, over-uses Stated Supports and short funding periods, and is being advanced without exposure drafts of the rules or the budget method for consultation and engagement with the disability community.

Rather than simplifying planning and strengthening choice and control, the proposed framework increases complexity and centralises power in NDIA systems that participants cannot see, understand or effectively challenge. It fails to address the structural inequities facing regional and remote communities, and creates new risks of harm for autistic people, people with complex communication needs, people with psychosocial and degenerative disabilities, and those with limited informal supports. The rushed transition timetable, limited safeguards and review pathways increase the risk that participants will be made significantly worse off, with some already experiencing hospitalisations and, in extreme cases, preventable deaths linked to inflexible funding arrangements.

SWAN urges the Government to pause implementation, publish all relevant rules and the budget method, and return to the co-design principles recommended by the Independent NDIS Review. Getting New Framework Planning right will require more time, deeper engagement and a genuine willingness to change course in response to the disability community. The cost of proceeding with a flawed framework will be borne by people with disability and their families for many years – in lost supports, lost trust and, in some cases, lost lives.



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