



Submission to the Senate Inquiry into the 'Securing the NDIS for Future Generations' Bill

June 2026

www.swanautism.org.au



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.

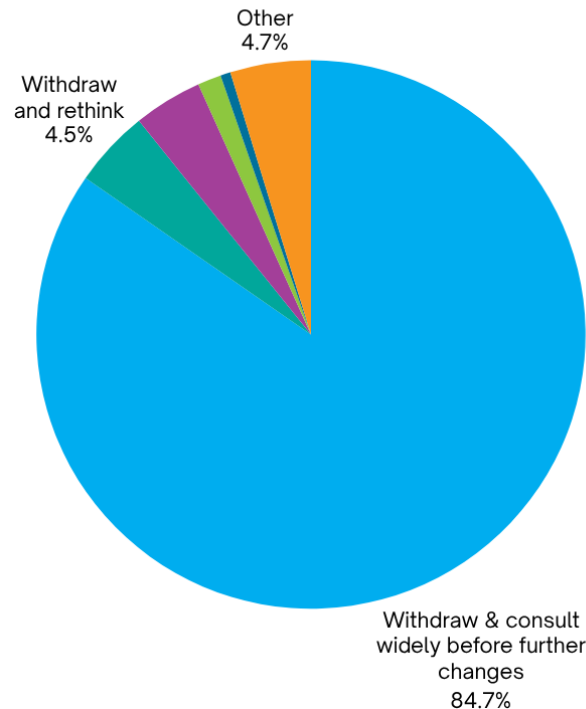
Our primary role in the community is to provide information, peer support, advocacy, and connections to mainstream and disability services. We build the capacity of people with disabilities and their families to navigate disability and mainstream systems to meet their needs and participate in their local 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, carers, support workers, allied health professionals, and the wider community. Our submission aims to include the voices of everyone who will be impacted by these proposed amendments to the NDIS Act.

Executive Summary

The Securing the NDIS for Future Generations Bill 2026 must not be passed. The Bill should be withdrawn, and thorough consultation with the disability community and our representative organisations be made with a full exposure draft and minimum three month consultation before any further amendments to the NDIS Act 2013 are made.

What do you think should happen with this Bill?



As shown in the pie graph above, 84.67% of survey respondents (856 people) said the Bill should be withdrawn and the Government should consult widely with the disability community before making any further changes to the NDIS law. Only six people (0.59%) said the Bill should be passed mostly as it is.

The Bill would significantly and harmfully narrow access to the NDIS, reduce and cap supports, expand automation and coercive compliance powers, weaken procedural fairness and review rights, and move the Scheme away from a rights-based, person-centred model towards a rationed, bureaucratic system driven by cost-containment instead of need. It is inconsistent with the Disability Royal Commission's findings and with Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), and it will predictably cause serious harm to people with disability, their families and communities.

Access and eligibility – tighter gatekeeping and loss of 'whole-of-person' assessment

The Bill makes it harder to get onto, and stay on, the NDIS by introducing a narrow functional capacity definition (section 9B), new treatment exhaustion rules and the power to refuse access where other systems 'should' provide support (proposed sections 25A and 25B), and by allowing access to be revoked where people are deemed 'uncontactable'. These changes sit in a context where there are already at least 232,546 Australians with profound disability not on the NDIS, and access requirements are already extremely difficult.

Standardised functional capacity tools and stricter permanence rules will disproportionately harm autistic people, people with psychosocial disability, people with fluctuating or cumulative disabilities, and those in regional and remote areas who cannot access the necessary assessments and treatments. Removing eligibility lists (such as List A) will drive people with disability further into crisis, risk safety by delaying access and insert additional bureaucratic hoops to navigate through a standardised assessment tool that will lack the nuance and flexibility to appropriately assess the impact of the wide diversity of disability types.

The Bill also allows plans to be suspended and access revoked if the NDIA cannot contact a participant, without enforceable requirements to use accessible, safe communication methods or to consider disability-related barriers, hospitalisation, homelessness or trauma. Survey responses show 92.21% of respondents are moderately to extremely worried that people will lose NDIS access when they have done nothing wrong, simply because NDIA's communication practices are inaccessible or unsafe. This is inconsistent with the Disability Royal Commission and the UNCRPD, which require accessible processes, continuity of supports and protection against institutionalisation.

Plans, reviews and unspent funds – less stability, less responsiveness, weaker safeguards

The Bill rewrites planning and review processes by introducing plan end dates and automatic renewals, tightening unscheduled reassessments, lengthening decision timeframes from 21 to 90 days, and removing key deemed-decision safeguards. Under proposed section 50A, plans can be automatically renewed without genuine engagement with the participant and without carrying over one-off supports such as home or vehicle modifications, and the renewed plan will not be a reviewable decision.

Unspent funds are treated as a proxy for lower need, despite the fact that under-utilisation most often reflects market failure, extensive waitlists, cancellation, hospitalisation or regional workforce shortages - not a lack of need. Survey data shows 95.25% of respondents agree or strongly agree the Bill will make it much harder to change plans when needs change, and the majority want unspent funds to carry over at least where delays are caused by long waitlists.

Proposed section 48A sharply narrows the circumstances in which participants can request an unscheduled reassessment to 'significant and ongoing' changes, leaving many urgent but time-limited crises outside the net. This exposes people to serious risks of neglect, abuse, hospitalisation and death when informal supports break down, providers collapse or initial plans were plainly inadequate. Limiting who can request plan changes (to participants or a single plan nominee) ignores the reality that many people rely on support coordinators, advocates and other helpers to navigate the system and leaves those without family or a nominee at particular risk. It also ignores the reality that NDIA only permit participants to have one plan nominee. This means that where a participant is unable to communicate with NDIA direct (because of their disability) and the plan nominee becomes incapacitated or passes away, there would be no method for having the plan reassessed.

Ministerial powers to cut funding – scheme-wide, non-reviewable cuts and caps

The Bill creates an extraordinary and alarming new Ministerial power under section 34A to reduce funding for specified groups of supports scheme-wide by legislative instrument, even where those supports have been assessed as reasonable and necessary for individuals. The Government has already stated its intention to use this power to cut social, civic and

community participation budgets by 50% and capacity-building supports by 10%, affecting whole categories of essential support.

These cuts are indiscriminate and fail to consider how decisions are made by NDIS delegates. There are hundreds of thousands of participants whose Core supports are already structured so that social, civic and community participation funding is being used to cover essential daily living and supervision needs - including for many people requiring 24/7 support, people in Supported Independent Living, and participants whose carers rely on NDIS supports to stay in paid work. Survey results are overwhelming: more than 95% of respondents oppose these powers and foresee major negative impacts, including worse mental health, increased isolation, greater family stress and fewer people with disability and carers able to remain in employment.

The Bill also allows the Minister to set maximum caps, intensities and worker-to-participant ratios for supports (amended section 33 and subsections 33(2EA)-(2EB)), and hard-wires these caps into new budget algorithms for New Framework Plans (amended section 32K). This shifts real power over how much support participants can ever receive away from transparent, individualised planning into behind-the-scenes instruments that are not subject to merits review, contrary to the Disability Royal Commission's warnings against blunt rationing and quotas.

Automation, compliance powers and debts – a Robodebt-style risk in the NDIS

The Bill establishes a broad legislative framework for automated decision making by the NDIA via sections 59B-59E, allowing computer programs to take 'administrative action' on the NDIA's behalf, including actions that involve discretion, evaluative judgment and forming a state of mind. These provisions initially apply to key payment and planning sections (33, 45, 45A, 45C) and can be extended to other provisions by Ministerial instrument. Despite some safeguards, the effect is to normalise automation in a system already experienced as confusing and punitive, with 72.6% of survey respondents opposing increased automation.

At the same time, Schedule 2 significantly expands NDIA's monitoring, investigation and coercive powers (sections 73ZSA, 73ZSB and related provisions), and introduces stronger information-gathering and appearance requirements with a 60-penalty-unit civil penalty (currently \$19,800) for failures to comply. It imposes new record-keeping duties (section 45B) on participants and nominees and links failure to keep records to automatic debts of the full amount of claims paid, without clear, disability-specific defences or explicit merits review rights for the underlying debt decision. This record-keeping requirement is inserted despite the fact that self-managed participants are already required to upload invoices, receipts and other evidence to the NDIS Portal with each claim. We note also that Medicare claims do not impose additional record-keeping requirements large fines for failing to keep records.

The debt and record-keeping provisions are particularly dangerous in light of NDIA's own debt error rate: 24.2% of reviewed debts between 2017 and 2024 contained errors. Yet the Bill does not make the original decision that a debt exists a reviewable decision under section 99, even though it does add review rights for some lesser compliance decisions such as issuing a compliance notice. Participants face increased risk of automatic debts, fines and enforcement where records are missing due to disability, poverty, disaster or NDIA's failure to properly explain obligations, while lacking a clear, direct path to challenge whether the debt should have been raised at all.

Survey respondents explicitly connect these changes with Robodebt: they justifiably fear an opaque, automated debt-raising regime in which it is harder to understand how decisions are made, harder to fix mistakes and harder to access justice. The approach conflicts with key recommendations of the Robodebt Royal Commission on automation safeguards, transparency, review rights, and empathetic, proportionate debt recovery, and is inconsistent with the Disability Royal Commission and the UNCRPD's requirements for procedural fairness and access to justice.

Reasonable and necessary criteria – from individual need to cost-cutting

Schedule 1, Part 6 rewrites the 'reasonable and necessary' framework by amending the objects in section 3, inserting new sustainability principles in section 17B, repealing section 31, and inserting an extensive set of new subsections in section 34. Removing section 31 strips out the key statement of the outcomes and assistance the NDIS is meant to pursue, while the new provisions explicitly prioritise 'financial sustainability', require supports to arise 'directly' from access-qualifying impairments, and emphasise 'fair and consistent' funding across similar participants.

These changes push decision-making towards standardised budgets, averages and caps, rather than individual circumstances, particularly for people with multiple impairments or complex needs whose support requirements cannot be neatly tied to a single diagnosis. Survey respondents warn that this version of 'consistency' will mean complex people are squeezed into simplified categories and funded to an average, not to their actual needs, undermining early intervention, holistic support and the 'whole-of-person' approach the NDIS was meant to embody.

Choice, control and provider registration – back towards block-funded, provider-centred models

The Bill advances fraud and integrity measures that, in practice, tighten provider registration and limit the ability of participants to use non-registered providers, particularly for core supports and personal care while doing little to reduce fraud. This undermines self-management and plan management, reduces flexibility, and risks recreating a provider-centred, block-funded system in which people must fit around providers rather than the provider being required to meet the needs of the participant, or lose their custom.

Mandatory or heavy-handed registration requirements will be particularly harmful in regional and remote areas, where participants already face thin markets, long waitlists and high travel costs. Forcing people to use distant registered providers will increase cost and reduce the amount of actual support, and undermine safe, trusted relationships with local workers, small businesses and community connections that often make support viable in the first place. This is inconsistent with the Disability Royal Commission's emphasis on choice and control and with the UNCRPD's requirement that people with disability have the right to choose their own supports, including in their homes and communities.

Cost-cutting at the expense of rights, safety and long-term sustainability

The Bill reframes the NDIS as a scheme whose primary obligation is 'financial sustainability', and uses that lens to justify tighter access, reduced supports, caps and Ministerial determinations, instead of targeting structural waste, price distortions and poor administration. Survey data show most respondents do not support this direction and foresee severe negative impacts, including reduced employment for people with disability and carers, more unpaid care (especially by women), increased hospitalisation, greater use

of aged care and justice systems, and heightened risks of violence, abuse, neglect and premature death.

There are credible, rights-respecting alternatives to cost control. SWAN's submission identifies significant savings from reducing unnecessary high-cost reports, improving decision quality, providing draft plans for correction, reducing reliance on external legal contest, and addressing inefficiencies in outsourced partner models. These options align with the Disability Royal Commission's call to fix systems and structures rather than cutting supports, and with the UNCRPD's requirement that financial measures do not undermine the right to live independently and be included in the community.

Conclusion and key asks to the Senate

SWAN's position is unequivocal: this Bill must be withdrawn and the Government must consult widely with the disability community before any further amendments to the legislation are made. It represents a fundamental shift away from a rights-based, individualised NDIS towards a rationed, automated, compliance-heavy system that will exclude people, cut essential supports, and increase avoidable harm and cost across the broader social system.

At minimum, SWAN calls on the Senate to:

- Reject or substantially amend the access and eligibility provisions (including sections 9B, 24, 25A, 25B, 30(1A), 40A) so that access remains grounded in whole-of-person assessment, fluctuating and cumulative disability, and practical availability of supports.
- Reject automatic plan renewals without genuine participant engagement, the narrowing of unscheduled reassessments, the extension of decision timeframes to 90 days, and the removal of deemed-decision safeguards, and ensure that unspent funds are not treated as a blunt proxy for reduced need.
- Remove Ministerial powers to make support determinations under section 34A and to set hard caps and ratios under section 33 and section 32K, or at the very least subject any such instruments to strict rights-based criteria, Parliamentary oversight, individual risk assessment and enforceable review rights.
- Fix procedural fairness and review rights before expanding automation, compliance and debt powers: make debt decisions reviewable, prohibit fully automated debt-raising and adverse compliance decisions, and require accessible human decision-making, explanation and independent auditing of automated systems.
- Preserve and strengthen the original objects and principles (including the substance of section 31) so that financial sustainability is balanced with, not placed above, rights, inclusion, safety and person-centred support.
- Reject any move towards mandatory provider registration that undermines self-management, plan management and local, trusted support arrangements, particularly in regional and remote areas.

If Parliament proceeds with this Bill as drafted, it will be doing so in full knowledge of clear, detailed evidence from people with disability, families and practitioners that the reforms will cause foreseeable and avoidable harm. The Senate should insist on a different path - one that secures the NDIS by fixing inefficiencies and improving decision-making, not by cutting away the supports and rights that people with disability need to live safely and with dignity.

Contents

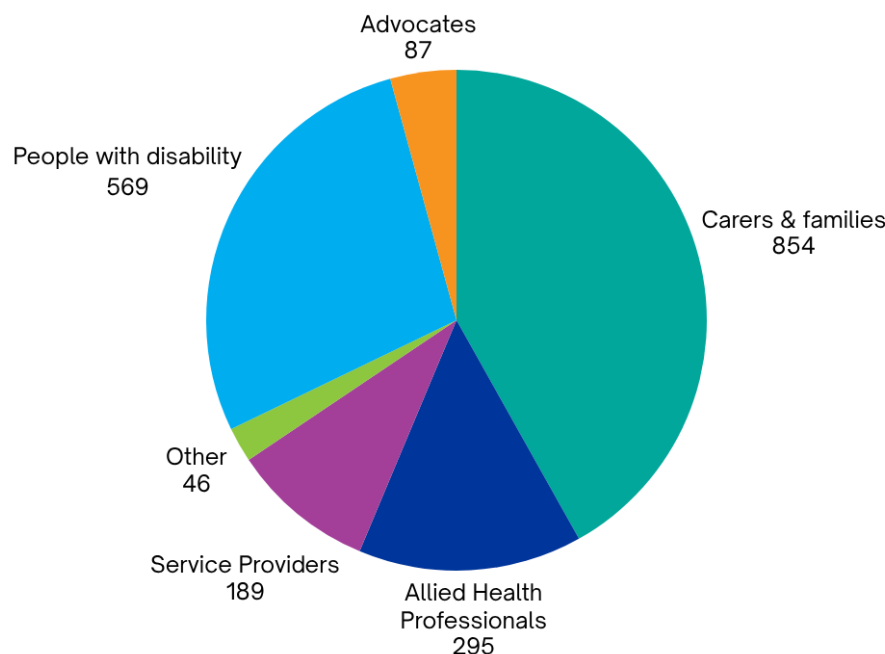
Acknowledgements	2
About SWAN	2
Executive Summary	3
Contents	8
Introduction	9
Getting onto the NDIS (Access and Eligibility)	12
Plans, Reviews and Unspent Funds	25
Funding Cuts by Ministerial Determination	31
Automation, Compliance Powers and Debts	38
Changes to the Reasonable and Necessary Criteria	53
Narrowing of Supports	59
Choice and Control	62
Repercussions of Cost Cutting	67
Where Could Alternate Savings Be Made in the NDIS?	70
Recommendations	72
Contact	77
Appendix One: Plain English Survey Full Report	78
Appendix Two: Easy Read Full Survey Report	426

Introduction

This submission was prepared by South West Autism Network (SWAN). In order to write this submission, we listened to the views and concerns of people with disability, their families and advocates, allied health workers, service providers and the wider community. To aid in gathering quantitative and qualitative data, SWAN created 2 surveys (a comprehensive Plain English version and an Easy Read version) and invited responses from across Australia. We explained the proposed changes to the NDIS Act in a way that was clearer to people than the information released from the Government and had an overwhelming response to the Plain English survey, with 1387 responses and 1023 completed surveys (74%) received in seven days. We also received 63 completed survey responses to the Easy Read version of the survey in the same timeframe.

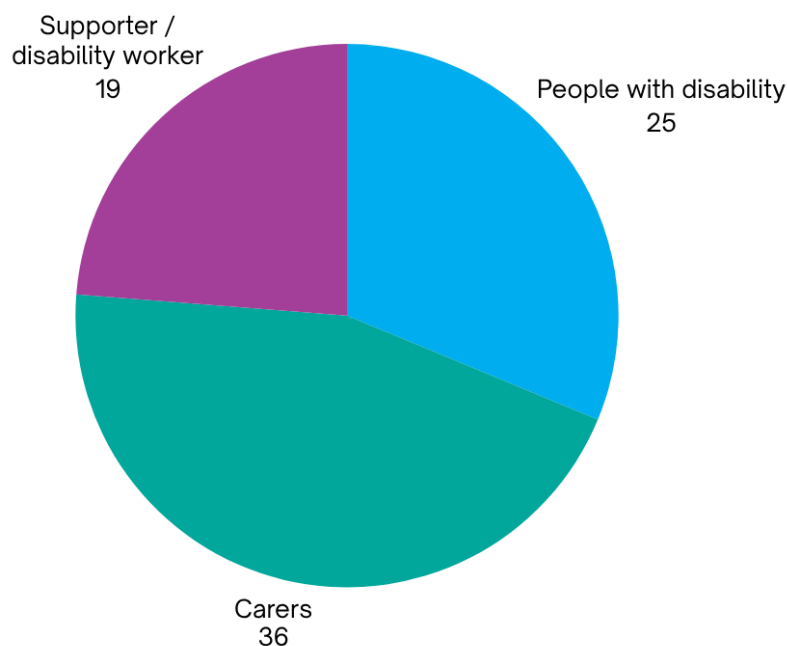
Due to receiving 2,162 written comments across the two surveys, SWAN are submitting the full report for each survey as appendices to this submission. We are very conscious of the inaccessibility of the consultation timeframe for people with disability and families, and given the very significant impact the proposed Bill will have, it is critical that people with disability and our families are heard by the Senate Inquiry.

Survey Respondents



As shown in the pie graph above, 41.08% of survey respondents were people with disability, 61.66% were family members (informal carers) of people with disability, 21.3% were allied health professionals, 6.28% were disability advocates and 13.65% were service providers. Survey respondents were able to select more than one demographic, and the responses reflect the fact that people with disability and families have many different roles in our society. 'Other' responses included medical practitioners, education staff, friends of people with disability, family members, service providers and broader members of the community.

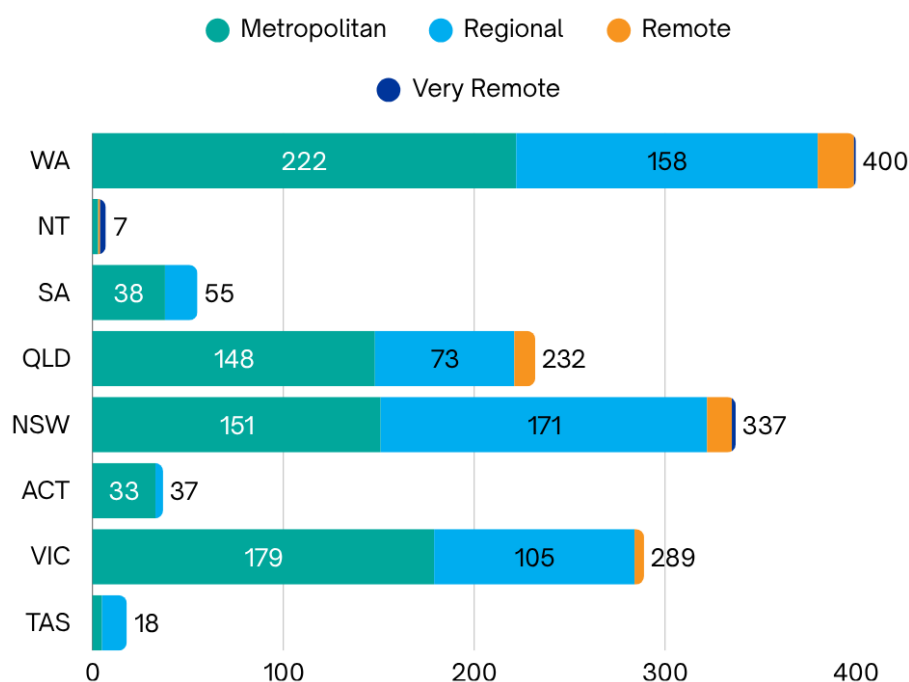
Easy Read Survey Respondents



As shown in the pie graph above, the 63 respondents to the Easy Read survey were comprised of 39.68% people with disability, 57.14% carers and 30.16% supports or disability workers.

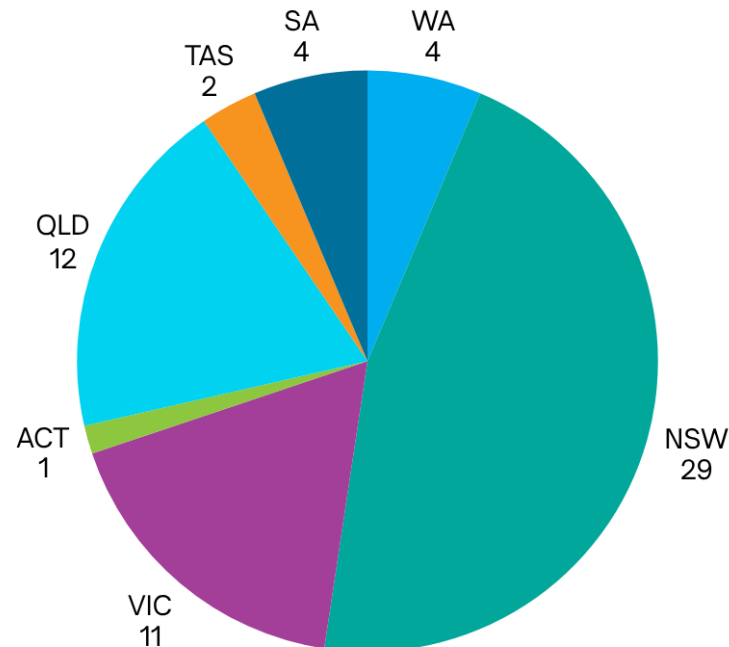
Survey responses were received from every state and territory, including, metropolitan, regional, remote and very remote areas as shown in the bar graph below.

Location of Survey Respondents



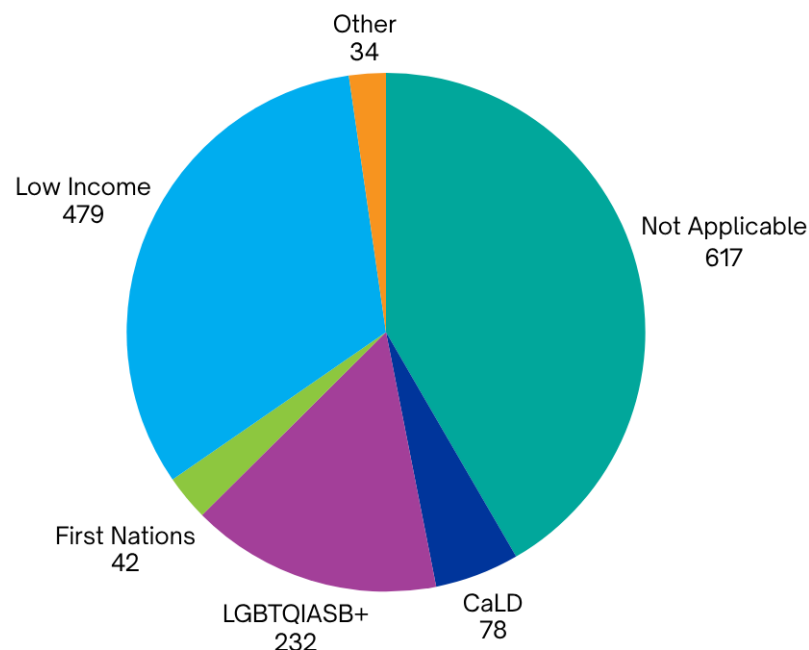
Respondents to our Easy Read survey were also spread across the country, with at least one response from every state or territory except the Northern Territory, as shown in the pie chart below.

Easy Read Survey Respondents' Location



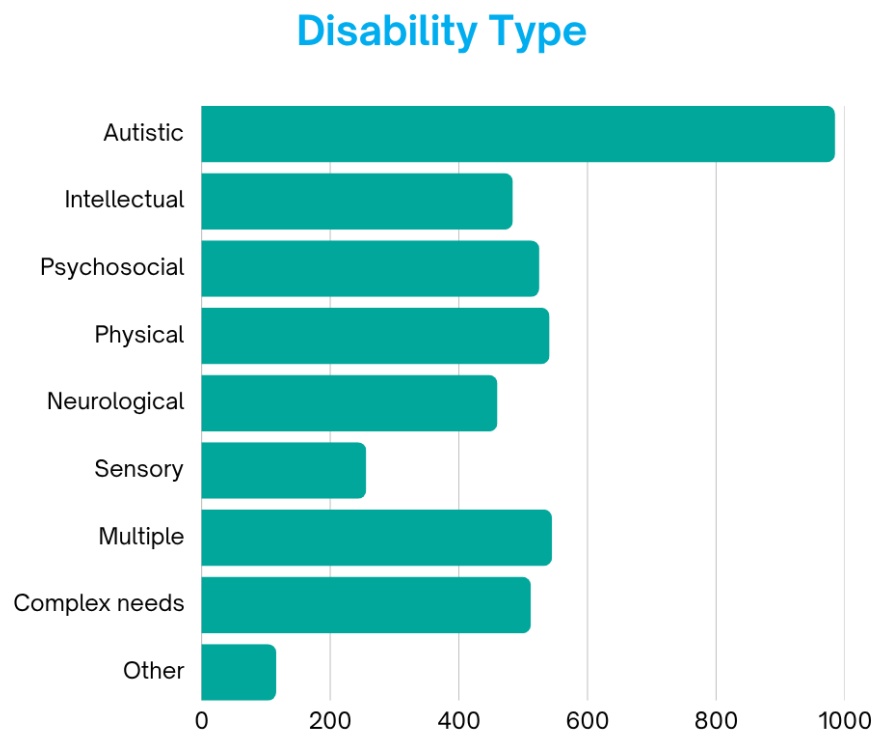
We also asked survey respondents if they identified as First Nations, Culturally and Linguistically Diverse (CaLD), LGBTQIASB+, low-income threshold or other intersectional identities, as shown in the pie graph below.

Intersectionality of Survey Respondents



The question on intersectionality was not included in the Easy Read survey due to the complexity of the NDIS Bill, extremely short consultation timeframe preventing SWAN from developing a thorough Easy Read survey.

Survey respondents were asked to select the disability or disabilities they or the person(s) they care for / work with have (as many disability types as are applicable).



As SWAN primarily supports autistic people (as well as people with other disabilities), the high response rate identifying autism was expected. This question was included in the Easy Read survey, but as a comment box. Please see the full Easy Read survey report in Appendix B for more information on the disability types of respondents to the Easy Read survey.

Getting onto the NDIS (Access and Eligibility)

According to the [Australian Bureau of Statistics](#) (ABS), in 2022 people with disability comprised 21.4% (5.5 million) of the Australian population.

- 4.1% or 1,007,002 people had a profound disability
- 3.8% or 998,197 people had a severe disability
- 3.1% or 814,319 people had a moderate disability
- 6.1% or 1,602,369 people had a mild disability
- 10.4% or 2,731,909 people had a schooling or employment related disability

As at the 31st March 2026, there were 774,456 NDIS participants, only 77% of the people identified by ABS in 2022 as having a profound disability.

The assumption that there are currently people with disability who should not be on the NDIS is incorrect – the Government’s own evidence clearly shows that there are

approximately a further 232,546 people with profound disability not currently on the NDIS.

It remains extremely difficult to gain access to the NDIS.

To meet the eligibility criteria under Section 24 of the NDIS Act 2013, applicants must prove:

- They have a disability caused by a permanent impairment, or have a psychosocial disability caused by a permanent impairment
- Their permanent impairment significantly impacts their life and their ability to do everyday tasks
- They'll likely need NDIS supports for their lifetime

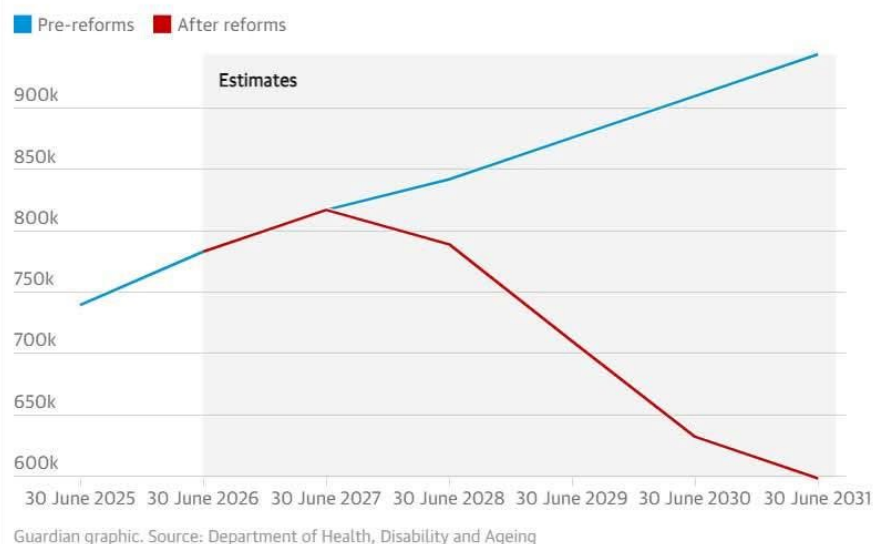
Applicants seeking NDIS Access must also prove:

- Their impairment substantially reduces their functional capacity
- Their impairment affects their ability to work, study or take part in social life
- They need a high level of support from others
- They need supports that are 'NDIS supports'

The proposed amendments in the Bill to access and eligibility lack procedural fairness - making the NDIS harder to enter, harder to stay in, and less fair for people with profound and significant disability. The changes in proposed section 9B, proposed section 25A, proposed section 25B, proposed section 48A, proposed section 40A and proposed subsection 30(1A) point in the same direction - tighter gatekeeping, narrower eligibility, more procedural barriers, and a greater risk that people with significant disability support needs will be excluded or removed from the Scheme.

These concerns are not about resisting sensible integrity measures. SWAN supports action to address fraud, waste and poor administration. The problem is that this Bill makes minimal changes to target fraud, instead targeting people with disability for funding cuts and removal from the scheme they have already proven they need. It also shifts more risk onto participants and families by making access harder; increasing the burden of proof on people with disability; increasing out of pocket costs and by allowing support to be interrupted or cancelled in circumstances where the person has done nothing wrong.

How the total number of NDIS participants will be impacted by reforms



The strongest message in SWAN's survey was that respondents are not afraid of accountability. They are instead justifiably afraid of being removed, delayed, repeatedly tested, or disbelieved by a system that is already inaccessible and often traumatising. Respondents repeatedly said they fear the Bill will lead to more people having to keep proving lifelong disability, more people being judged by rigid processes instead of lived reality, and more people falling through the gaps.

SWAN is especially troubled about proposed section 9B, which defines 'functional capacity', and proposed subsection 9B(2), which would allow Rules to set criteria and tools for assessing functional capacity, including the creation and use of a standardised assessment tool as a gateway to NDIS access. **We note that despite rhetoric to the contrary, NDIS Access is granted based on diagnosis and/or evidence of impact on function.**

On paper, standardisation may sound fair, but in practice, it risks producing the opposite result. Many disabilities are complex, cumulative, fluctuating, masked, or highly affected by environment, trauma, communication barriers and the availability of support. A standardised tool will not capture that reality for many autistic people, people with psychosocial disability, people with intellectual disability, children with emerging support needs, and people with multiple and intersecting impairments.

Further, there is no standardised Functional Capacity Assessment (FCA) tool in existence suitable for use across all disability types, and the development, validation testing and peer review of such a tool would require a minimum of five years.

Adding a requirement that people with disability undergo a standardised Functional Capacity Assessment to gain access to the NDIS has serious repercussions, including:

- Additional cost burden, increasing poverty impacts.
- Extensive additional wait times, particularly for people in regional and remote communities, driving people with disability and families into crisis.
- Serious wellbeing and mental health impacts.
- Risk of being completed by inexperienced and/or unqualified assessors

The NDIA introduced List A for eligibility to streamline access for some disability cohorts, and reversing this will have severe impacts for the affected cohorts. For example:

- a) Motor Neurone Disease (MND): The average life expectancy for MND from diagnosis is approximately 2-3 years. All people with MND will require NDIS access, as urgently as possible. The requirement of a FCA together with other proposed changes in this Bill are likely to incur a wait time of 12-18 months or more before NDIS Access is approved – more than half of the life expectancy of someone diagnosed with MND.
- b) Spinal cord or brain injury resulting in quadriplegia, paraplegia or tetraplegia: The requirement of an additional FCA increases the mental health impacts of a life altering disability while unnecessarily delaying NDIS access and leaving the person with disability taking up a hospital bed for months longer than is needed, due to the lack of access to support.
- c) Amputation or congenital absence of two limbs: Again, the requirement of an additional FCA increases the mental health impacts, delays NDIS access unnecessarily and means that someone who has undergone amputation is left taking up a hospital bed for months longer than is necessary.
- d) Permanent blindness in both eyes: The additional requirement of a FCA means unnecessary delays in accessing NDIS, possible increased hospital stays and significant risk to safety.

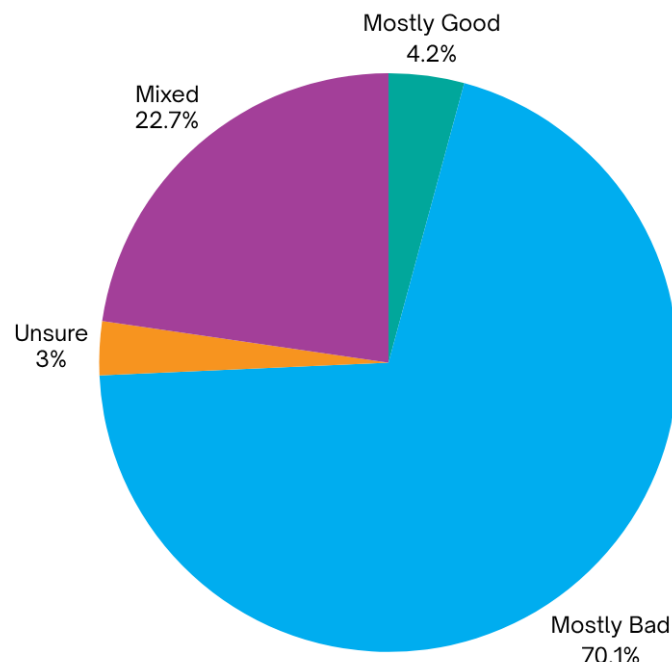
Similar issues arise for all conditions on List A for eligibility, including autism. There is no suitable tool for assessing functional impact for autistic people. All functional assessments require at least some element of self-reporting of impairments. This requires:

- A thorough understanding of the disability
- A thorough and clear understanding of the individual's strengths and impairments
- Strong self-awareness and self-assessment
- Strong communication skills
- A qualified, allied health assessor with extensive experience and expertise in autism

For autistic children, the issues above also occur. It is extraordinarily difficult for a non-diagnostician to clearly identify, assess and communicate the strengths and impairments of an autistic child. Diagnostician are trained in assessing children, teens and/or adults against the [DSM-V\(TR\)](#) criteria for autism spectrum disorder – not in clearly identifying and explaining an autistic person's impairments for NDIS Access purposes.

Removing the current eligibility lists will actively cause harm to people with disability while increasing costs for disabled people and families and the Commonwealth, State and Territory Governments. The current eligibility lists must remain in effect, with a Functional Capacity Assessment tool developed and provided free of charge to people with disability who do not have an eligible diagnosis on List A. Importantly, Down Syndrome and Intellectual Disability (IQ of 70 or less) must be added to List A eligibility, to bring the NDIS in line with the eligibility requirements of disability support in other systems.

Functional Capacity Assessment for Access



As can be seen in the graph above, 70.1% of survey respondents (864 people) felt that the introduction of a standard tool to measure functional capacity is **not** a good idea. Of the 1,233 who answered this survey question, we received an additional 372 comments that were primarily in opposition of the introduction of a standardised tool to measure how much a disability affects daily life.

“ A standard tool may measure whether someone ‘can’ do a task, but miss whether they can do it safely, repeatedly, consistently, independently, and without significant distress or exhaustion. ”

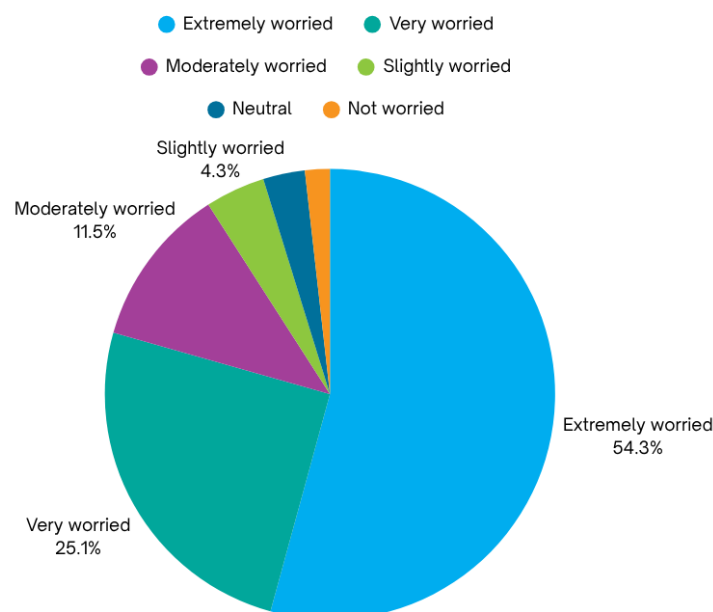
- Allied Health Professional

These risks are even greater in regional and remote areas. Survey respondents repeatedly said that people in regional communities already struggle to get timely assessments, specialist evidence, allied health reports and appropriate treatment. A tighter access model that depends on a standardised tool will not operate fairly where the services needed to generate that evidence are delayed, unavailable or unaffordable.

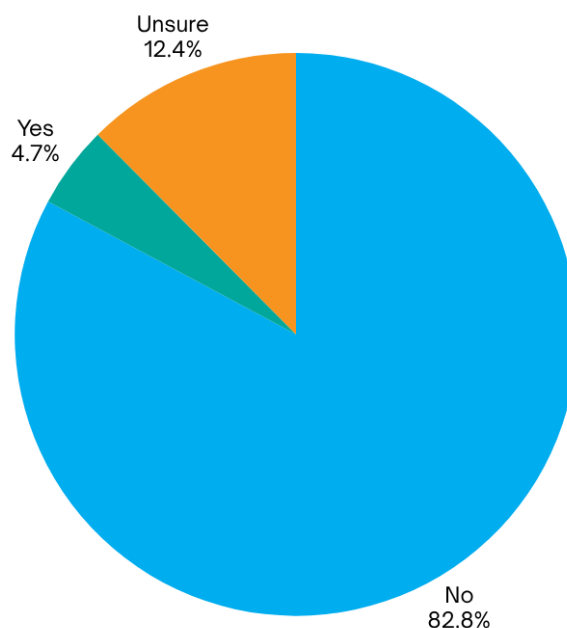
We note also that the Government has previously refused to confirm that Functional Capacity Assessments to gain access to the NDIS would be provided free of charge. This risks the NDIS becoming accessible only to people with disability with the financial means to access the assessment tool.

As can be seen in the graph below, 79.4% of survey respondents reported that they are either very worried or extremely worried that the new ‘functional capacity’ rules could make it harder for some people to get onto the NDIS.

Concern About Functional Capacity Assessment for NDIS Access



Level of Agreement with Permanent Disability Changes



As can be seen in the pie graph above, of the 1,229 people who answered the question, *'The Government wants stricter rules for permanent disability, including requiring that all 'appropriate' treatments have been exhausted, and considering whether treatment might improve the condition. Do you support this change?'*; 82.83% of respondents advised that they do **not** support this change. SWAN received a further 379 comments in response to this question.

“ It is already re-traumatising many (if not all of us) that go through reviews and have to re-prove our permanent condition is permanent. Why can't they understand what the word 'permanent' means. All our medical expenses cost WAY more than they should and we get asked to provide thousands of dollars' worth of reports every few years just for specialists to write 'yes, they still have their PERMANENT condition' ”

- Person with disability

SWAN strongly opposes the proposed section 25B, which would again allow the NDIA to refuse access on the basis that another system should provide support. This would overturn the effect of *NDIA v Sutherland*, which confirmed that a person did not have to prove other systems could not meet their needs before accessing the NDIS. Survey respondents were clear about the real-world problem here: 'the other systems aren't there'. In practice, people are already being told to go to health, mental health, education, housing, aged care or community systems that are underfunded, unavailable, or unable to meet disability-related need. Redirecting people away from the NDIS without real alternative supports will not reduce need. It will shift cost and crisis onto families, hospitals, schools, mental health

services, justice and emergency systems, and the creation of foundational supports simply duplicate administrative and bureaucratic costs while delivering dramatically less actual support to people with profound and significant disability.

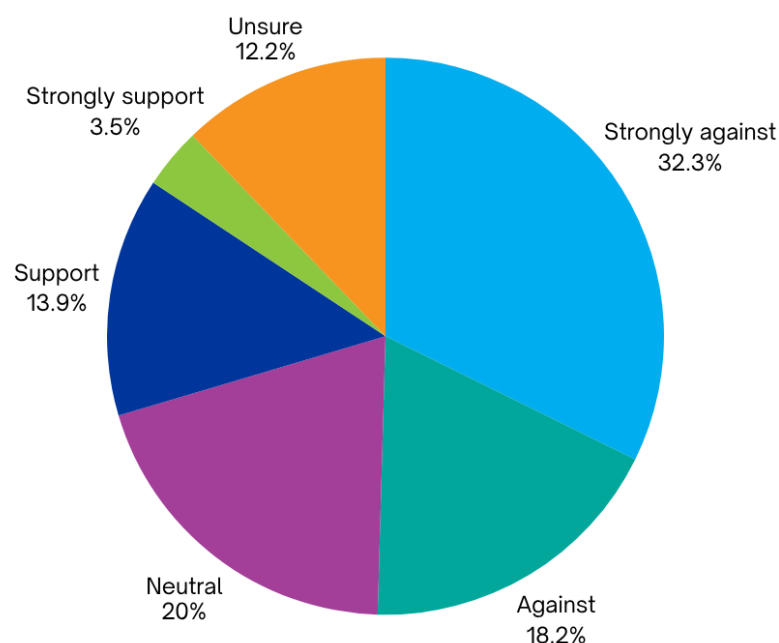
“ I have a friend with DVA claims that took 8 years to finalise. They were able to get support under the NDIS while they argued with DVA. I also know veterans who are still fighting for very needed supports who are currently getting NDIS support...it is life saving and has prevented suicide and self-harm. ”

- Person with a disability

We are particularly concerned about the impact of the proposed section 25B on First Nations people. Together with the changes in the Aged Care Act 2024, this would effectively redirect First Nations people aged 50 years and over to Aged Care facilities, which are not typically equipped to provide support for non-age related disabilities. See also First Peoples Disability Network's [Written briefing to the Royal Commission into Violence, Abuse and Neglect of People with Disability](#) (2020).

Aged care homes are built to manage the end of life and general frailty. They are not built, funded, or staffed to help disabled people live active, independent lives in their communities. During the Disability Royal Commission, the First Peoples Disability Network (FPDN) warned that pushing First Nations disabled people into institutions like aged care homes is a form of structural violence. It strips people of their right to independent living and continues a long history of forcing First Nations people out of their communities and into institutions.

Support for requirement to use other systems (eg. workers compensation or motor accident insurance)



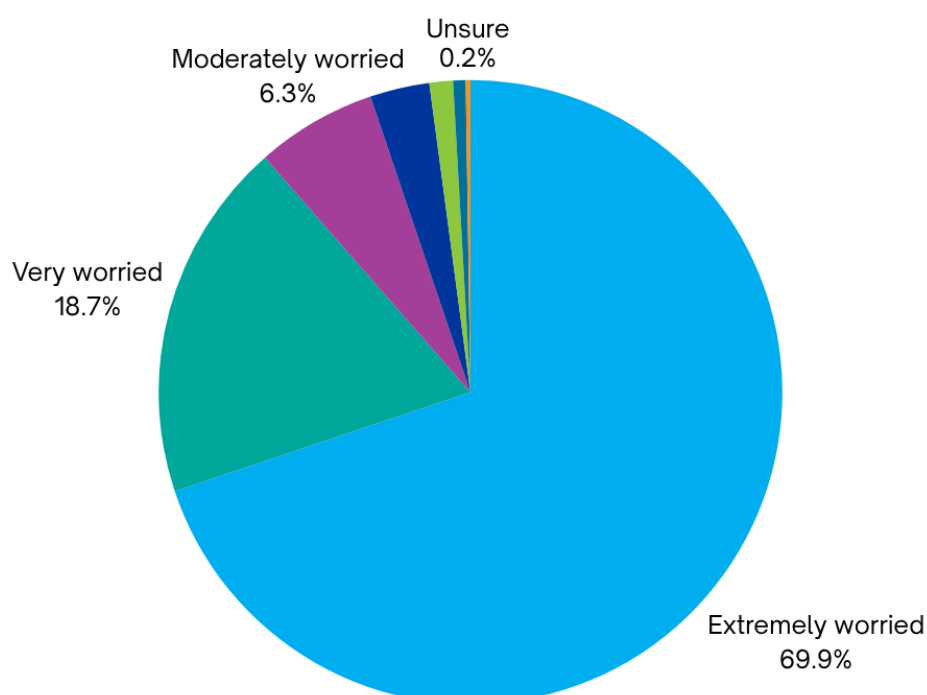
As shown in the graph above, 50.45% of survey respondents were 'against' or 'strongly against' the Government's proposal to require people to use other systems, whilst 17.42% of respondents reported that they 'strongly support' or 'support' this proposal. Of the 1,223 who completed this question, SWAN also received 367 comments in response to this question.

“ If these other systems are accessible, people will access them first before coming to the NDIS, cause they're often easier and quicker to access. These systems often provide some initial support, but not ongoing support where needed. There's a gap there that the NDIS should be filling! Likewise, Medicare care plans provide some subsidised appointments with allied health, but for those of us who need regular and ongoing support from these providers, we've used up our yearly quota of sessions by February and then have to either go into debt, or lower our quality of life without the ongoing support. ”

- Disabled carer

In addition to the majority of survey respondents being against or strongly against the Government's proposal to require people to use other systems, as can be seen below, 94.8% of survey respondents reported that they are 'moderately', 'very', or 'extremely' worried that people will get stuck between systems (NDIS, health, insurance, aged-care etc) and not get the support they need.

Level of concern that people will get stuck between systems and not get the support they need



Of the 1,231 respondents who answered this question, SWAN received an additional 219 comments.

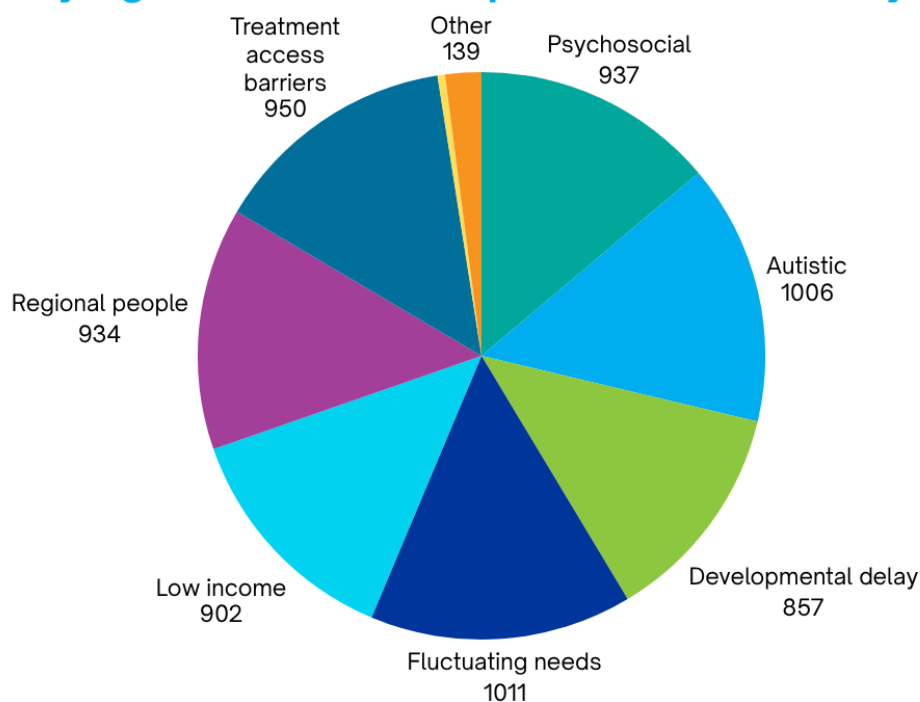
“ It will be very easy for government departments to ‘play handball’ with people with a disability, with all claiming that the person’s care is not their responsibility, and people with a disability and their families will fall through the cracks. ”

- Person with disability

Our survey asked respondents for information as to which groups they think would be most affected by tighter rules about permanent disability. As shown in the graph below, the 1,230 respondents to this question noted the cohorts most likely impacted by tighter rules about permanent disability are:

- People with disability needs that fluctuate (82.2% or 1,011)
- Autistic children and adults (81.79% or 1,006)
- People who can’t easily get to treatment or specialists (77.24% or 950)
- People with psychosocial disability (76.18% or 937)
- People in regional and remote communities (75.93% or 934)

Which groups are likely to be most affected by tighter rules about permanent disability?



For people with psychosocial disability, the risks are particularly acute. Psychosocial disability typically presents as fluctuating and/or episodic and is poorly understood by systems that may inaccurately treat it as temporary, treatable or better dealt with elsewhere. The combined effect of proposed section 9B, proposed section 25A and proposed section

25B is that people with psychosocial disability are likely to be inappropriately excluded because their disability does not fit a narrow functional profile, because they have not tried every treatment, or because they are pushed towards another system instead. That outcome would undermine the equal recognition of psychosocial disability as disability.

There is also a serious risk to autistic people, especially autistic women, gender-diverse people, people who mask, and people whose support needs are underestimated because they appear 'fine' in short, formal or highly structured settings. Survey respondents repeatedly expressed fear that autistic participants will be disbelieved or excluded by models that rely on superficial presentation rather than the day-to-day reality of disability. A standardised, impersonal or overly medicalised gateway is especially unsafe for people whose disability is often hidden, misread or minimised.

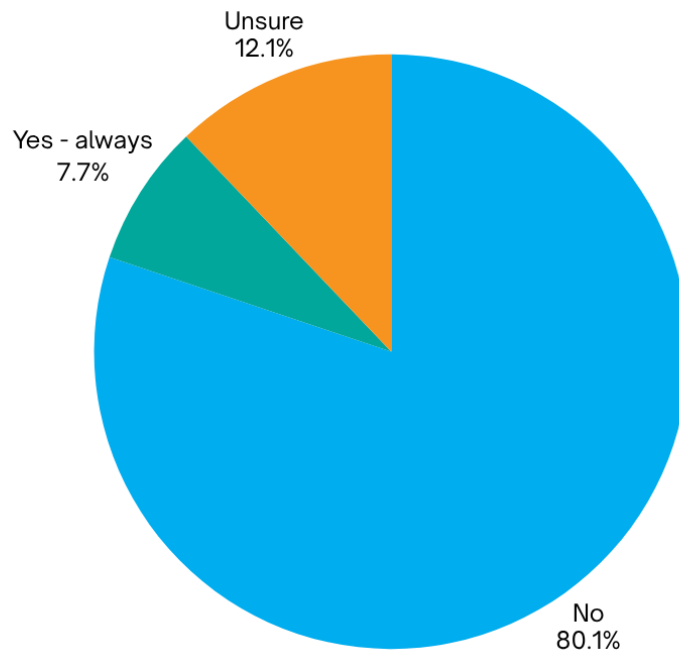
Another change proposed in the Bill is for the NDIA to have 90 days to decide whether someone can access the NDIS instead of the 21 days allocated now. In October 2023, NDIA started to transition to the PACE computer system. As part of this transition, NDIA changed the process for applying for access to the scheme. Whilst applicants are currently still able to apply direct to NDIA by completing a NDIS Access Request Form, the NDIA will redirect the applicant to a Local Area Coordinator (LAC) or Early Childhood Approach (ECA) Partner In The Community (PITC) to collect proof of identity.

This coincided with the introduction of the Community Connections Plan, intended as an optional unfunded plan for people with disability deemed ineligible for the NDIS. Whilst the intention of the Community Connections Plan is reasonable, the implementation by PITC has been and continues to be extremely problematic. Instead of preparing the Community Connections Plan if a person with disability not eligible for the NDIS wants one, the PITC are preparing Community Connections Plans as a mandatory step prior to finalising the NDIS Access Process (regardless of whether the person is eligible, ineligible, or even wants a Community Connections Plan. The practical impact of this on people applying for access to the NDIS has been extreme. While NDIA only start recording the time an applicant is waiting for an access decision from the moment the PITC finalises the Access Request and sends it to the Eligibility team for processing, the actual time the applicant has waited is typically 3-12 months or longer – prior to the PITC sending the application to the Eligibility team for processing. **The NDIA's data reporting on wait times for processing Access Requests against the Participant Service Guarantee have been incorrect since October 2023 due to this issue.**

People with disability applying for NDIS Access are typically waiting 4-13 months or longer for their Access application to be processed – even if their disability is on the current List A for eligibility. Allowing the NDIA an additional 69 days to process NDIS Access applications will drive people with disability and families into even more crisis than is currently occurring and exacerbate the impact of these wait times on hospitals and other stop-gap measures.

As shown in the graph below, of the 1,229 respondents who answered this survey question, 80.15% reported that they **do not** support NDIA having 90 days to decide whether someone can access the NDIS, instead of the 21 days currently allocated in the Participant Service Guarantee.

Support for NDIA to have 90 days to decide on NDIS Access applications



SWAN is also extremely concerned that the Bill makes it easier for people to lose access once they are in the Scheme. Proposed section 40A would allow the NDIA to suspend a plan where the person is said to be 'not contactable', and proposed subsection 30(1A) would allow access itself to be revoked if that situation continues.

We note that the Bill does not require contact attempts to be accessible and does not require the NDIA to consider the risk of suspension before acting, even though the Explanatory Memorandum suggests that risk should be considered. Survey responses show why this matters. Respondents described participants who cannot answer unknown calls, who rely on email or support people, who are Deaf, blind, non-speaking, hospitalised, homeless, traumatised, overwhelmed, or unable to manage bureaucratic contact because of disability itself. **In that context, loss of support for being 'uncontactable' is not an integrity measure, but a foreseeable pathway to crisis.**

The same concern applies to proposed section 48A, which would sharply narrow the circumstances in which a participant can request a reassessment of their plan. Participants would only be able to seek reassessment if there has been a significant and ongoing change in support needs, and the NDIA would have longer to decide the request and more control over whether it is considered at all. This may appear to be a planning issue, but it also affects access in practice because it makes it harder for participants to respond to changing needs before they reach crisis. It also reflects a broader shift in the Bill towards more rigid process and less individualised support.

These provisions do not align with the findings of the [Disability Royal Commission \(DRC\)](#). The DRC heard extensive evidence about systems that disbelieve people with disability, rely on narrow definitions of need, place people in crisis before help is available, ignore communication access, and create conditions for abuse, neglect, exclusion and institutionalisation. The Commission called for systems that are rights-based, accessible, trauma-informed, person-centred and safe. A Bill that increases gatekeeping, relies more heavily on standardisation, expands Ministerial and bureaucratic power, and permits loss of

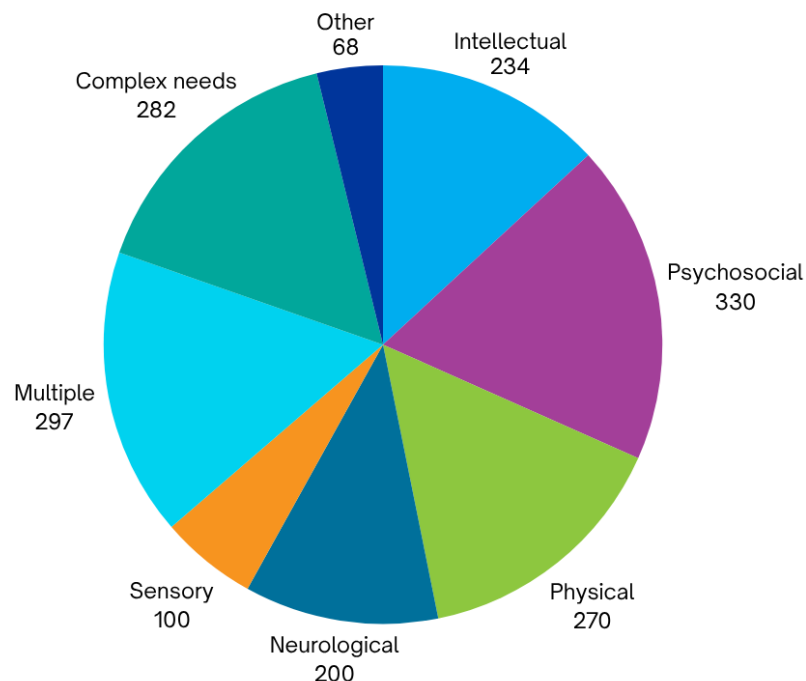
access through inaccessible process is contrary to the DRC recommendations and will actively cause harm to people with disability.

The Bill also sits uneasily with Australia's obligations under the [United Nations Convention on the Rights of People with Disability \(UNCRPD\)](#). The Convention requires equal recognition before the law, non-discrimination, accessibility, respect for autonomy, and the right of people with disability to live in and participate in the community on an equal basis with others. Access rules that depend on rigid functional testing, inaccessible communication, unrealistic treatment expectations, or redirection to non-existent services risk undermining those rights. So do processes that disproportionately harm people with:

- Communication-related disability
- Psychosocial disability
- Intellectual disability
- Autistic people
- First Nations people
- People from Culturally and Linguistically Diverse (CaLD) backgrounds
- People from low socio-economic
- People living in regional and remote communities.

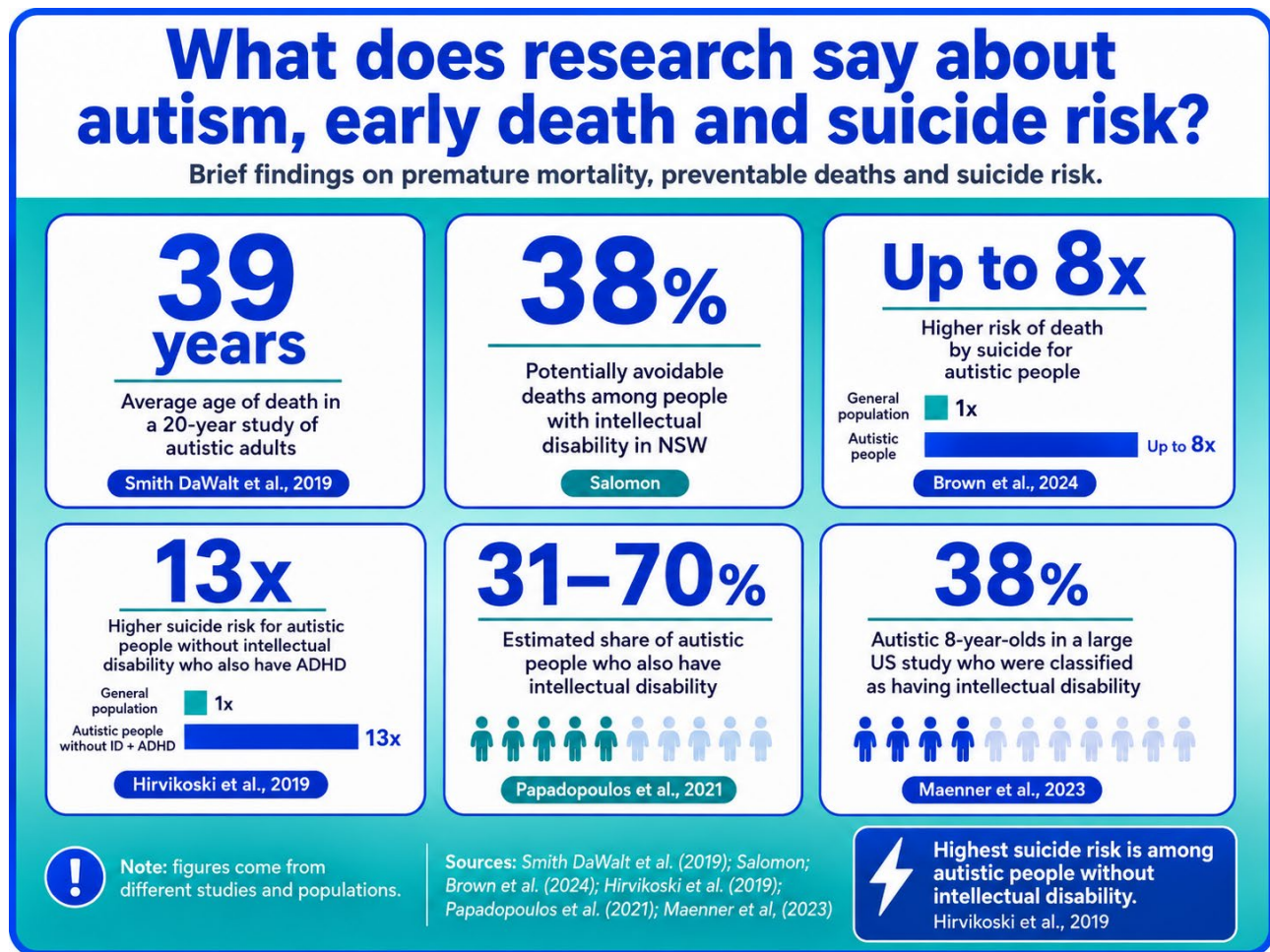
SWAN is equally concerned about the removal of the 'whole of person' approach to assessing NDIS eligibility and support needs. Disability is complex, and people rarely have a single disability – rather, it is far more common to have multiple, intersecting disabilities. as shown in graph below from our survey results, autistic people have many common co-occurring disabilities.

Co-Occurring Disabilities With Autism



Survey respondents described the likely effects in stark but consistent terms: loss of therapy, loss of early support, loss of routine, loss of regulation, loss of community participation, worsening mental health, family burnout, and greater long-term cost to Government when early, preventative and maintenance support is withdrawn. Numerous respondents explicitly said these changes would put lives at risk. This is evidenced by

current statistics around the lifespan of autistic people (shown in the infographic below), including those who are considered to be 'less disabled' and those who have a co-occurring intellectual disability. It reflects lived experience of what happens when disability support is delayed, denied or withdrawn in systems that have no reliable fallback.



For these reasons, SWAN strongly opposes the access and eligibility changes in the Bill unless they are substantially amended.

Our position is simple: access to the NDIS must not depend on whether a person fits a narrow template, can survive repeated assessments, can answer inaccessible contact attempts, or lives in a place where the right evidence and treatment are available. The Senate should amend the Bill so that access remains grounded in dignity, individual need, whole-of-person assessment, and the right of people with disability to live safely and participate in the community on an equal basis with others.

At a minimum, the Senate should

- Reject proposed section 9B to the extent it enables rigid functional testing through Rules;
- Reject proposed subsection 25A(2) and the 'all appropriate treatment' requirements in proposed subsections 24(5)(a) and 25(1B)(a);
- Reject proposed section 25B; and
- Remove the plan suspension and revocation provisions in proposed section 40A and proposed subsection 30(1A) unless strong accessibility, safety and human rights safeguards are inserted.

The Bill should instead;

- Preserve the whole-of-person approach;
- Recognise cumulative and fluctuating disability;
- Protect access for people whose disabilities are not well captured by standardised tools;
- Require accessible and human decision-making and oversight by appropriately qualified professionals; and
- Ensure that no one loses NDIS access because another service system or treatment is unavailable in practice.

That approach would be more consistent with the purpose of the NDIS, the findings of the Disability Royal Commission, and Australia's obligations under the UNCPRD.

Plans, Reviews and Unspent Funds

SWAN is deeply concerned about the Bill's changes to plan end dates, plan renewals, mid-plan reassessments and unspent funds. Taken together, these changes will make plans less stable, less responsive and less individualised, while giving participants and families fewer practical ways to fix a plan when something goes wrong.

The key proposed changes are in proposed section 50A, proposed section 48A, proposed subsection 48(3), Schedule 1 item 20 replacing existing subsection 48(4), and proposed subsection 32B(2A). These provisions would replace reassessment dates with plan end dates, automatically renew plans, stop unused funding carrying over, make reassessment requests harder, extend the NDIA's decision time from 21 days to 90 days, and remove current safeguards if the NDIA does not decide within the timeframe set out in the Participant Service Guarantee.

“ 90 days for anything in the NDIS is too long; these are people's lives, not applicants for a rental property. Anyone that is currently a participant, carer, family member or support provider knows (that any disability related process) extends far beyond 90 days, yet allows only 28 days to appeal any or all decisions? ”
- Person with disability

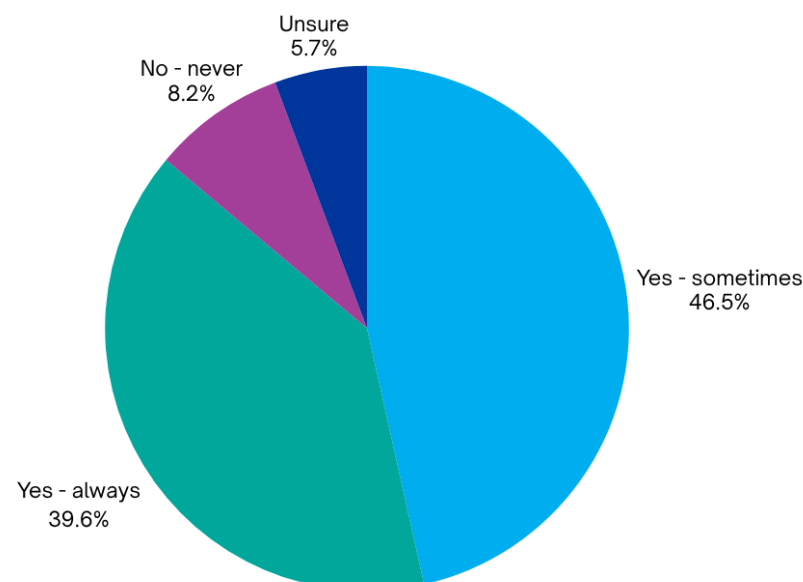
On paper, these may look like *minor* administrative changes. In practice, they enable automatic plan renewal without proper engagement with the participant. Under proposed section 50A, a renewed plan can be created without any requirement that it be prepared with the participant, and one-off supports from the old plan will not carry over. We note that the Minister may be able to make additional 'alterations' to renewed plans, including cuts to funding in that plan, and that the renewed plan would not be a reviewable decision under section 100.

This model treats unspent funds as if they automatically show lower need. That is not how disability support works in the real world. Funds often go unused because extensive waitlists are too long, services are cancelled, the participant is in hospital, difficulties sourcing or accessing support, or the local market simply cannot provide the support. In regional and remote areas especially, under-utilisation often reflects market failure, not lack of need, and it is unfair and unsafe to let automatic renewal lock in lower budgets on that basis. We note also that it remains common for NDIA delegates to allocate funding to support categories that the participant neither wants or needs – artificially creating a plan under-spend while support need remain unmet.

One-off supports like assistive technology, home or vehicle modifications may not be utilised within the original plan's timeframe due to extensive waitlists. For example, the wait time in most areas of regional WA to access home modifications currently exceeds two years. This means that if a regional WA participant's NDIS plan has a duration of two years and includes home modifications, their plan would be renewed without discussion with them, and excluding the amount allocated for home modifications - and this would not be a reviewable decision. The lack of nuance here is extremely harmful.

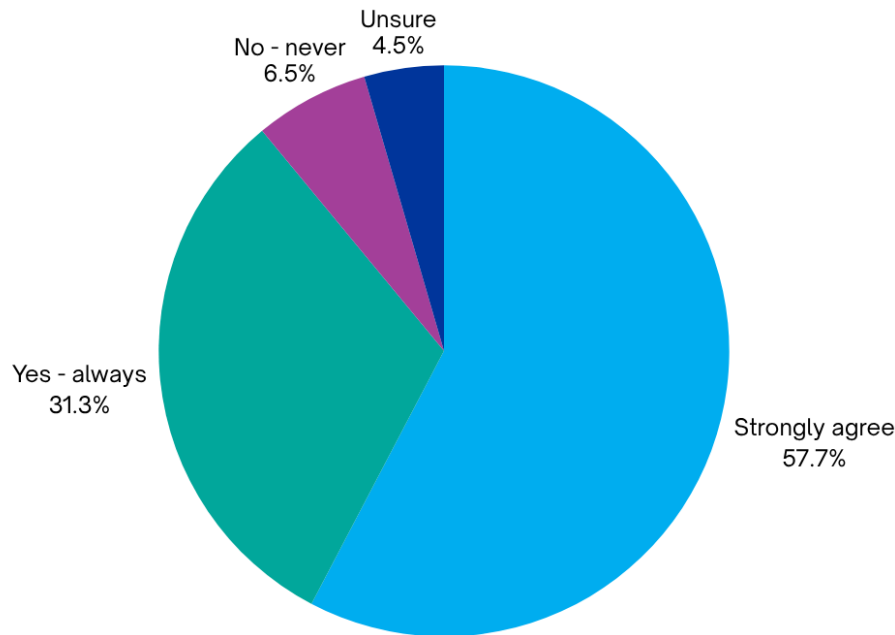
As shown in the graph below, 39.59% of survey respondents felt that unspent funds should always carry over to the new plan, and 46.50% felt that unspent funds should carry over to the new plan in some situations, such as when the funding has not been spent due to long waitlists.

Should unspent money roll over into the next plan?



Survey respondents repeatedly described the reforms as creating 'harder plan changes', 'increased administrative burden', more time spent 'fighting systems instead of living life', and a system that is less responsive to the reality of diverse disability needs and intersectional factors. As can be seen in the graph below, 95.25% of survey respondents (1,102 people) 'agree' or 'strongly agree' that the Bill will make it much harder for some people to get their plan changed when their needs change. Many respondents also said the cumulative effect of the Bill would be increased uncertainty, stress, fear of losing supports, and more pressure on families already carrying an unsustainable load.

The Bill will make it much harder for some people to get their plan changed when their needs change

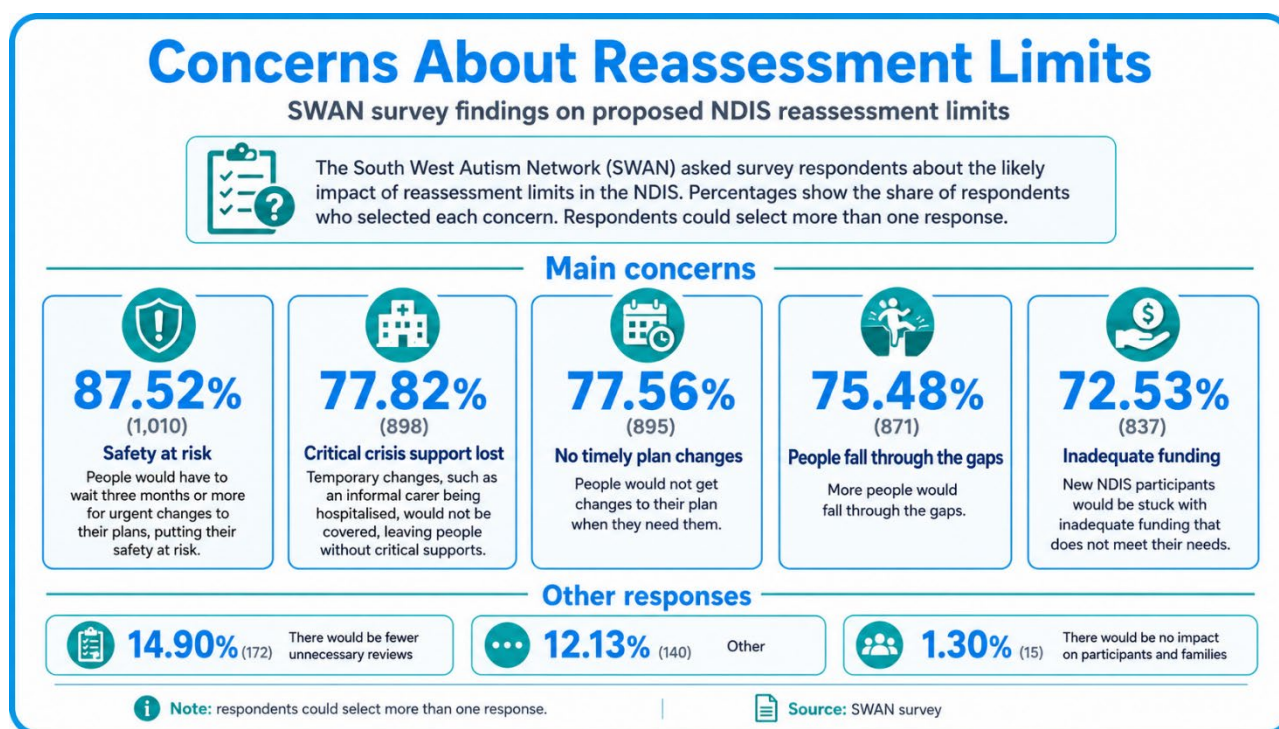


SWAN is also extremely concerned about the proposed narrowing of unscheduled reassessments. Under proposed section 48A, participants will only be able to request an unscheduled plan reassessment where there has been a significant and ongoing change in support needs that affects either functional capacity in an ongoing way or personal or environmental circumstances in a specified way. Because the change must be 'ongoing', many real and urgent situations may not qualify, even when the plan is clearly no longer working.

If passed, this amendment will cause serious harm, including increased neglect, violence, abuse relinquishment of care, unnecessary hospitalisation and death of people with disability. Plans often become unworkable because of provider collapse, a failed school arrangement, escalating family burnout, gradual deterioration, a change in behaviour support needs, or because the original plan was plainly inadequate from the start.

NDIA **never** allocate funding in a participant's NDIS plan for unexpected crisis situations which may be temporary. For example, consider a participant requiring 24/7 support, with an informal support person providing the majority of this support. If that informal support person is hospitalised for six weeks, either planned or unplanned, the new provision would prevent the NDIA from temporarily increasing funded supports to ensure the safety of the participant for that six week period. The likelihood of the participant experiencing neglect or malnutrition, sustaining injury, or dying in such circumstances is acute.

An unscheduled reassessment system that only responds once the situation is severe enough, permanent, or neatly categorised is **not** a safe or person-centred review system. As can be seen in the infographic below, when asked what impact limiting mid-plan changes will have, of the 1,154 respondents who answered this question, only 15 people felt there would be no impact on participants and families, and 172 respondents felt it would result in fewer unnecessary reviews. 98.70% of survey respondents said that there would be significant negative impacts caused by the proposed change.



SWAN is especially concerned that these changes will disadvantage participants who cannot self-advocate easily or have difficulties with communication. The Bill creates a stricter process for reassessment requests and, under proposed subsection 48(3), the NDIA must only consider a request if it is made in the required form and includes any information the NDIA asks for.

The Bill also limits S48 plan change requests to only participants or nominees. Again, this proposed change fails to consider the practical realities of how NDIS operates. NDIA allow two type of nominee:

- Plan Nominee: able to make decisions about the participant and their NDIS plan on behalf of the participant. This is also referred to as a Child Representative for children under 18 years.
- Correspondence Nominee: able to receive communication about the participant and their plan, such as letters, copies of NDIS plans etc, but not permitted to make decisions on behalf of the participant.

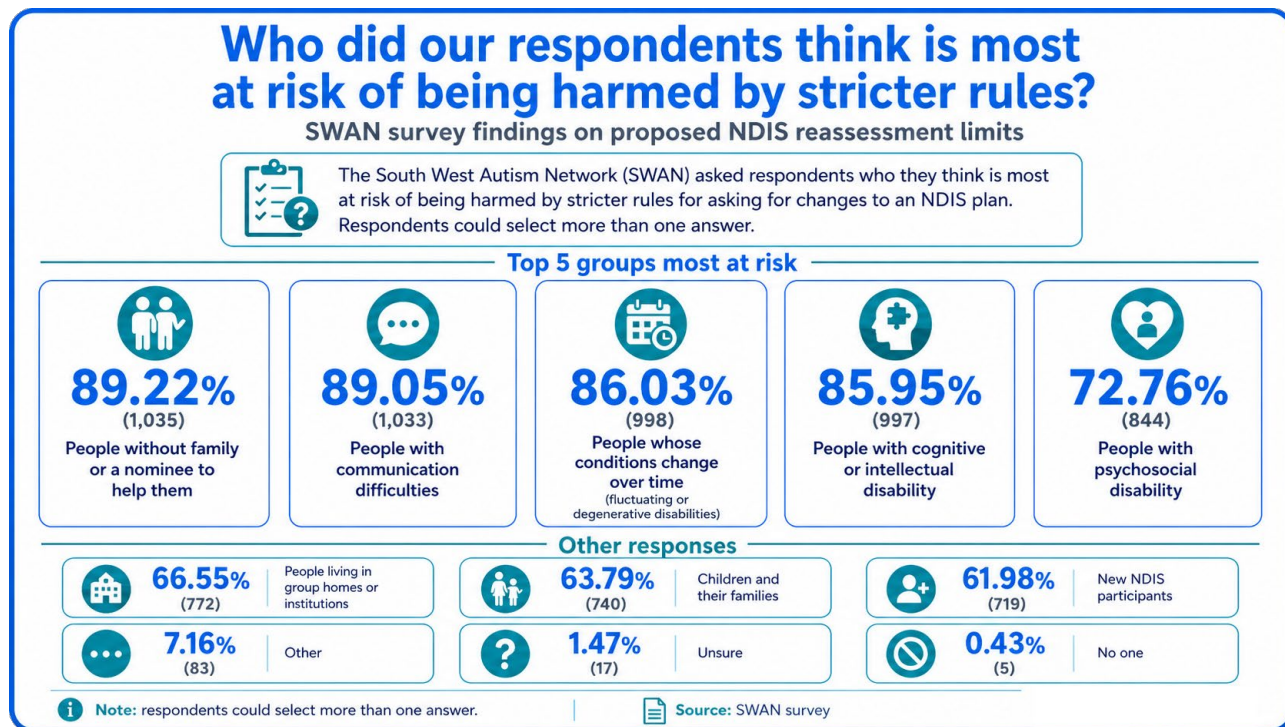
It is important to recognise that the NDIA only permits participants to have one Plan Nominee. **Under the proposed amendment, if the participant is unable to communicate with the NDIA direct because of their disability and the Plan Nominee (typically the participant's primary carer or informal support) is incapacitated or dies, there is no pathway under the Bill to have the plan changed.**

In practice, many participants rely on support coordinators, providers, advocates and family members to identify risk early, gather information, and help trigger review processes. Survey respondents repeatedly said the system is already too hard to navigate and will become even harder for people with communication disability, executive functioning disability, fatigue, trauma, literacy barriers and fluctuating mental health. As can be seen in the infographic below, when asked who they think is most at risk of being harmed by stricter rules on asking for changes to their plan, the top three concerns were for:

- 'People without family or a nominee to help them' (89.22% ≈ 1,035 respondents),
- 'People with communication difficulties' (89.05% ≈ 1,033 respondents), and

- 'People whose conditions change over time' (86.03% ≈ 998 respondents).

NOTE: Respondents could select more than one answer.



The change from 21 days to 90 days for the NDIA to decide whether to reassess a plan (proposed subsection 48(3)) is another serious concern. For too many participants, three months is not a minor administrative delay. It can mean months without enough support to stay safe, keep a job, remain in school, continue parenting, avoid hospital, prevent family collapse, or access critical supports needed to stay alive.

SWAN is also very concerned about the removal of the existing deemed-decision safeguard in Schedule 1 item 20, which removes and replaces existing subsection 48(4). That change removes accountability when the NDIA does not make a decision about changing the participant's plan within the timeframe set out in the Participant Service Guarantee. Participants and families already report excessively long delays, uncertainty and poor communication, and the survey responses show strong fear that the reforms will entrench that experience rather than fix it. Further, the 90-day timeframe provides no impetus for the NDIA to act quickly to reassess NDIS plans when participant safety and wellbeing is at risk.

These concerns are made worse by proposed subsection 32B(2A), which would allow the NDIA to transition a participant to a new framework plan instead of deciding the reassessment request. We note that decisions to transition participants into new framework plans are not reviewable. That means a participant may ask for reassessment because their plan is not working, only to be moved into a new planning framework without the same review rights. It's extremely common for participants and/or nominees to request a section 48 plan change during crisis – a particularly unsuitable time to be forced to go through a Support Needs Assessment and transition to New Framework Planning, and having to adjust to a very different plan format, budget breakdown and functionality.

These planning changes cannot be looked at in isolation. They interact with the Bill's broader shift away from individualised support and toward administrative control and

scheme-wide cost reduction, including proposed section 17B and the broader changes to planning principles, including the complete and alarming proposed removal of section 31.

Survey respondents repeatedly cited this change as a move away from person-centred support, choice and control, and toward a system that is more rigid, more adversarial and more focused on containing costs than responding to people's real disability support needs.

That direction is inconsistent with the core themes of the Disability Royal Commission. The DRC highlighted the harm caused when systems are inaccessible, inflexible, crisis-driven and built around administrative convenience and austerity measures, rather than the lived reality of people with disability. It called for systems that are safe, accessible, person-centred and responsive, and that reduce rather than intensify the risk of neglect, abuse, exclusion and family collapse. A planning system that allows automatic renewal without real engagement, narrows reassessment rights, prolongs delays and weakens review safeguards moves against the DRC recommendations, instead of supporting them.

It is also inconsistent with the UNCRPD. The Convention requires Australia to uphold dignity, autonomy, accessibility, participation, and the right of people with disability to live in the community with choices equal to others. Those principles are not met by a planning system that only works for people who can manage complex forms, chase deadlines, survive lengthy delays and whose lives luckily fit into a standard template. This is not the reality for the majority of people with disability - a rights-based scheme must be accessible in practice, not just in theory.

The human impact of these planning changes is immediate. Plans are not just paperwork - they are what allow people to maintain therapy, routine, communication support, behaviour support, employment, study, community access, family stability and safety. Survey respondents described sleeplessness, acute terror, fear of losing support coordination, fear of losing therapy and community access, and fear that slowly and carefully built supports will disappear through rushed, impersonal or automated decisions. It's clear for anyone familiar with how NDIS functions that the Bill will not create certainty or fairness, but instead create more hypervigilance, crisis planning, deeper distrust of the NDIA, and by extension, the Government.

Due to the very significant harms these changes will incur, SWAN strongly opposes the Bill's plan renewal, unscheduled reassessment and unspent funds provisions unless they are substantially amended. At a minimum, the Senate should:

- Reject automatic plan renewal under proposed section 50A without meaningful participant engagement;
- Amend proposed section 48A so reassessment remains broadly available where a plan is no longer working in practice;
- Require NDIA to enable participants to have more than one Plan Nominee to safeguard participants unable to communicate with NDIA direct;
- Reject the extension in proposed subsection 48(3) from 21 days to 90 days;
- Retain strong deemed-decision safeguards instead of Schedule 1 item 20 to ensure procedural fairness remains; and
- Ensure that unspent funds are never treated as a blunt proxy for reduced need without proper examination of service gaps, workforce shortages, hospitalisation, regional barriers and other real causes of under-use.

NDIS plans must remain individualised, reviewable and responsive to real life. Participants must be able to seek urgent changes when a plan is unsafe, inadequate or unworkable, and

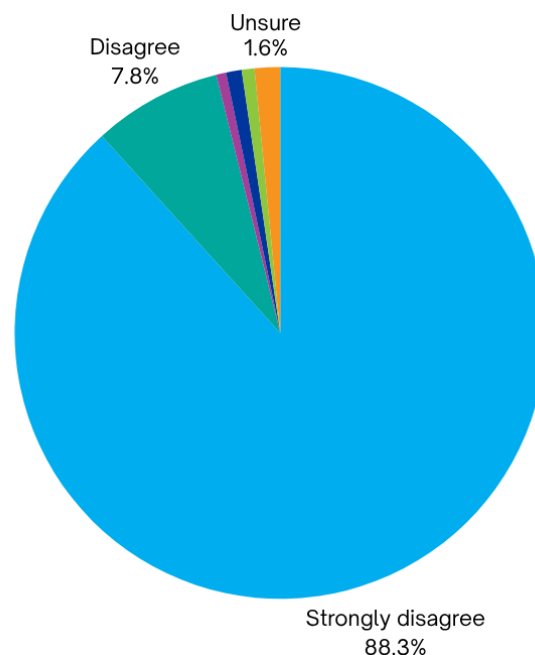
they must be able to rely on the people around them to help trigger that process. Anything less risks taking the NDIS further away from its stated purpose, further away from the principles identified by the Disability Royal Commission, and further away from Australia's obligations under the UNCRPD.

Funding Cuts by Ministerial Determination

SWAN **strongly opposes** the Bill's proposed Ministerial determination power because it would allow unlimited funding cuts across classes of supports and/or groups of participants at any time, without individual assessment, and without the agreement of Parliament, States and Territories.

Under proposed section 34A of the Bill, the Minister would be able to make 'support determinations' that reduce how much funding is available for particular groups of supports, even when those supports have been assessed as reasonable and necessary for individual participants. The Government has already indicated it intends to use this power to reduce budgets for social, civic and community participation by 50% and capacity-building supports by 10%. These are not minor administrative adjustments - they are deliberate, broad and unilateral cuts to supports that participants rely on every day to remain safe, connected, regulated and able to participate in ordinary life.

Minister's power to cut funding for class of support or class of participant



As shown in the pie graph above, only 1.73% (20) of the 1,160 survey respondents agreed or strongly agreed with the proposed amendments to allow the Minister to cut funding for any type of support or cohort of participants, whilst 96.12% (1,115) of survey respondents disagreed or strongly disagreed. We received a further 307 comments in response to this question.

**“ My (disabilities are)
so complex that this
would be catastrophic.”**

- Person with disability

The most alarming feature of this power is how unfettered and indiscriminate it is. Proposed section 34A would allow the Minister to reduce funding for specified groups of supports through legislative instruments, rather than by returning to Parliament to amend the Act each time.

Because these determinations operate at scheme level, they are not individual plan decisions and are not open to normal merits review with participants. In practice, this creates an extraordinary new

power for the Minister to cut participant funding across entire support categories without passing new primary legislation, and without participants having a clear right to challenge the cut – even where the determination results in funding significantly below the participant's reasonable and necessary funding allocation. If Parliament gives this power away, it will not only empower the current Minister, but will also arm future Ministers with an extraordinary tool to reduce funding for all participants, for selected groups of participants, for all supports, or for selected supports, in whatever way the Government of the day decides.

We are frankly alarmed by the indiscriminate nature of these brutal cuts. A 50% reduction to social, civic and community participation budgets and a 10% reduction to capacity-building budgets do not turn on a person's actual support needs, risks, safeguards, environment or goals. They are blunt, across-the-board reductions that ignore the reality that disability supports are highly individual, and that apparently similar budget lines can serve very different functions in different people's lives.

Critically, the proposed Ministerial powers to cut funding fail to consider how the NDIS actually operates and allocates funding. Funding for daily living support is capped at six hours per day. Anything above this requires an extensive home and living support application with very expensive accompanying reports. Due to this, it is common for NDIA to supplement the Core budget for participants requiring higher intensity supports with more hours of social, civic and community participation funding, which is not capped. This means that there are high numbers of participants requiring 24/7 support who have more funding allocated to social, civic and community participation than to daily living supports. The impact of non-appealable 50% funding cut to this cohort is dramatic. There is risk of participants who require 24/7 support having their Core funding cut by 30% or more. The case study below provides an example of how these cuts will impact people with disability in real world settings.

Case study:

Paul is a 31 year old NDIS participant who lives with his parents, both of whom work full time thanks to Paul's NDIS funding. Paul requires support 24/7, but because he lives with his parents and NDIA expects them to provide substantial informal supports, there has been no Home and Living application submitted, and NDIA has not allocated funding in Paul's NDIS plan for a Home and Living assessment or exploration and design funding. Paul's NDIA planner allocated funding for three hours per weekday of daily living supports funding and six hours per week day of social, civic and community participation funding, in order to cover his parents work hours and travel time. If the Bill is passed, Paul's total Core funding would be cut by 33%, and at least one of Paul's parents would no longer be able to work.

Paul and thousands of other participants will still require 24/7 support after the cut. Their disability impacts and support needs do not reduce simply because the Minister reduces one budget line. If the social, civic and community participation portion is cut by 50% regardless, thousands of participants will be left without enough funding to remain safe, and providers are at risk of being unable to maintain safe staffing arrangements, including safe ratios in the community and around other people. This also impacts people living in Supported Independent Living (SIL) and Specialist Disability Accommodation (SDA) arrangements, reducing safety and increasing segregation – against the recommendations of the DRC.

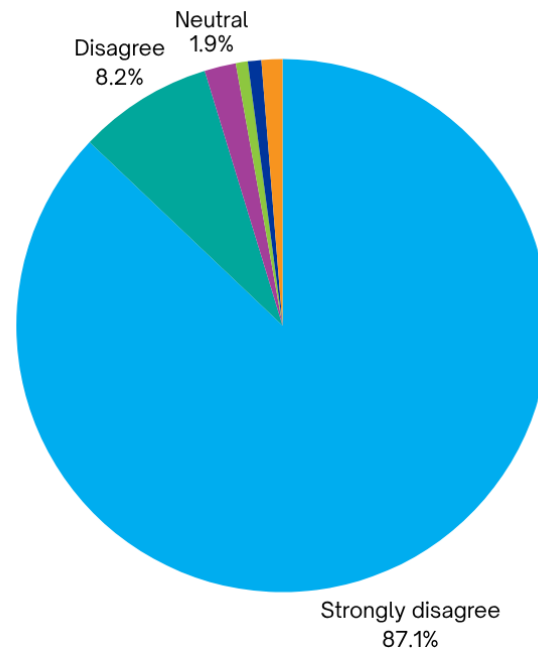
Whilst the Bill says the Minister must consider safety when making a determination, the proposed section 34A framework still allows determinations that leave people with less funding than the assessed cost of their reasonable and necessary supports. The Government's planned 50% cut to all social, civic and community participation funding will severely impact people with disability, particularly people with 24/7 support needs. These cuts will also dramatically impact informal carers – primarily women – driving carers back out of the workforce to provide unpaid care. This will increase Australian welfare costs and drive more people with disability and families into poverty, in a cost of living crisis.

Many people with disability also utilise social, civic and community participation funding to support their employment. A brutal 50% cut to this critical support also pushes people with disability out of employment and back onto welfare payments and poverty.

Determinations that leave people with less funding than the assessed cost of their reasonable and necessary supports creates an obvious and unacceptable safety risk. For many participants, social, civic and community participation funding is not about discretionary outings or lifestyle extras. It is part of the practical structure that makes constant supervision, behaviour support, structured routine, regulated engagement, community presence and safe support possible. Cutting that funding can increase the risk of self-harm, harm to others, burnout in staff and families, failed placements, restrictive responses, avoidable hospital presentations and greater involvement with emergency, mental health and justice systems.

Survey responses collected by SWAN echo this, warning that cuts to these supports will mean more isolation, more family strain, more mental health deterioration, more loss of independence and more long-term demand on hospitals, schools and crisis systems.

How do you feel about the Minister being able to reduce funding levels eg. 50% cut to social and community participation and 10% cut to capacity building



As shown in the pie graph above, of the 1,100 people who answered this question, 95.27% of survey respondents (1,048 people) 'disagree' or 'strongly disagree' with the Government's proposal that the Minister be able to reduce funding levels for some groups of supports for many participants at once (i.e., 50% cut for social, civic and community participation and 10% cut to some capacity-building supports). SWAN received an additional 322 comments.



Social and community participation is the only thing I have right now. It doesn't even come close to being enough. Let me ask you why do they want to reduce social and community participation?

The government doesn't want disabled people to be out socially. This is all about sit down, shut up and accept the fact we allow you to even eat.

- Person with disability

It's quite common for adult NDIS Participants with intellectual disability, Down Syndrome, Acquired Brain Injury and/or autism to only or mostly have funding for Social, civic and community participation allocated in their Core budget, even though they also need daily living supports. This is primarily due to the:

- Historical and commendable priority of NDIS to support people with disability to participate in social and community activities, including employment, rather than being segregated at home.
- NDIA's cap of six hours per day on daily living supports before a Home and Living Supports application and extensive evidence is required.
- Flexibility of the Core budget meaning that funding may be allocated by a NDIA delegate under one support category with the intended flexibility of use for all Core supports.

The Ministerial power breaks the core design, intention and promise of the NDIS as an individualised scheme. The original promise of the NDIS, reflected in the current

objects in section 3 and principles in section 4, section 31 and in the 'reasonable and necessary supports' framework in section 34, was that supports would be based on a person's own circumstances, goals and needs.

The Bill instead adds new, reduced principles in proposed section 17B and related amendments that require the NDIA to prioritise 'financial sustainability' and enable scheme-wide cuts through support determinations. That shifts the scheme away from person-centred decision-making and towards blanket political decisions about which support categories should be reduced to meet budget targets – regardless of the harm caused to people with disability.

“ How can people live meaningful lives if they're forced into isolation? ”
– Person with a disability

Survey respondents repeatedly described the reforms as cost-cutting thinly disguised as reform, warning that the Bill will remove flexibility, reduce participation and punish the people with disability for whom the NDIS was intended - instead of tackling fraud, price-gouging and administrative waste.

Social, civic and community participation and capacity building are not peripheral supports. They are critical supports that enable people to leave the house, maintain relationships, build communication, develop daily living skills, regulate emotions, sustain employment, participate in education, reduce behaviours of concern and avoid crisis.

Disabled Peoples' Organisations have long warned that segregation is inherently unequal and discriminatory, and a direct breach of human rights ([Position Paper: Segregation of people with disability is discrimination and must end \(2020\)](#)). Cutting these essential supports threatens to force people back into the very isolation and institutional care successive governments have fought so hard to dismantle, including through the NDIS and Australia's Disability Strategy.

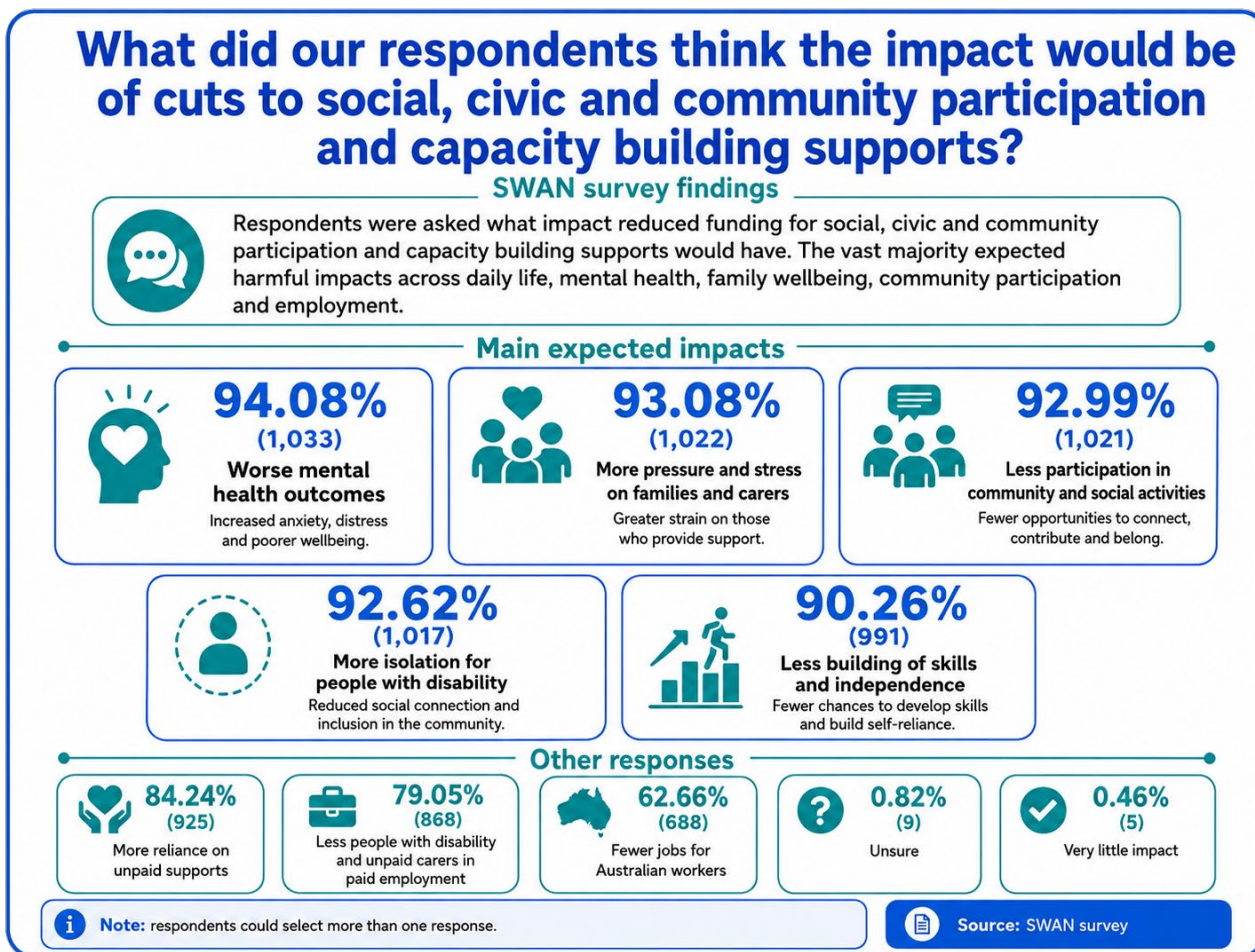
“ There are people in disability groups online discussing voluntary assisted dying if they have to go back to being house bound due to lack of support to access the community ”
– Person with a disability

When these supports are reduced, the consequences ripple across every area of life. Segregation, violence, abuse, neglect and deaths of people with disability increase. Families and unpaid carers are pushed to breaking point, early intervention is lost, and preventable crises become more likely and more frequent. As shown in the infographic below, only 0.46% of survey respondents (5 people) of the 1,098 respondents who answered this question felt there would be little impact

if funding is reduced for social, civic and community participation and capacity building supports. 1,084 survey respondents reported that such funding cuts would have significant negative impacts, including:

- Worse mental health outcomes (94.08%),
- More pressure and stress on families and carers (93.08%),
- Less participation in community and social activities (92.99%), and

- More isolation for people with disability (92.62%).



It's important to note that 79.05% of survey respondents indicated that these cuts will directly lead to significantly less people with disability and unpaid carers being able to remain in paid employment, and the subsequent economic impact of this.

The Disability Royal Commission repeatedly found that lack of appropriate support is a central driver of violence, abuse, neglect and exploitation in homes, services and institutions. A Ministerial power that allows broad, indiscriminate cuts to exactly the supports that reduce risk is inconsistent with those findings. These impacts also sit uneasily with Australia's obligations under the UN Convention on the Rights of Persons with Disabilities.

The UNCRPD requires Australia to support people with disability to live independently, be included in the community, ensure equal access to services and supports, and to take effective measures to protect people from violence, abuse and neglect. A law that enables the Minister of the day to cut essential supports at scale, without individual assessment, accessible safeguards or effective review, undermines autonomy, participation and equality in practice. It risks pushing people back into institutional or quasi-institutional responses that the UNCRPD is specifically designed to prevent, and the DRC recommended against.

“ The vast majority of unpaid carers are women. This is Handmaid's Tale stuff - forcing women back into the home. I was an unpaid carer for decades. My son, who has complex support needs, severe intellectual disability and level 3 autism is now in supported independent living. The fact that he had NDIS supports available through his tween and teen years meant that I was able to complete a Bachelor of Arts part-time, online, during this time. I am now doing a PhD and contributing new knowledge to society. If these changes had been in place during those years I would not have been able to study. These changes are an attack on our human rights - disability rights, carer rights and women's rights. ”

- Unpaid carer (Mother) / PhD student.

The survey evidence that SWAN collected in only seven days clearly shows that the disability community profoundly understand these risks. Respondents used stark language because they know what happens when supports are cut from people already living at the edge of exhaustion, poverty and systemic failure. They linked the proposed changes to increased distress, suicidality, family collapse, preventable hospitalisation and deaths. Those warnings are credible evidence of foreseeable harm and must not be dismissed by the Government as ‘anxiety’ or ‘fear of change’.

The expanded Ministerial powers to set maximum caps on supports in Schedule 1, Part 6 - through the amended section 33 and new subsections 33(2EA) and 33(2EB) - are equally harmful. Under these provisions, the Minister can make a legislative instrument that sets maximum funding amounts, maximum intensities, and maximum worker to

participant ratios for particular supports or classes of supports. Consequently, the NDIA's funding component calculations must not exceed those caps.

This effectively allows broad, across-the-board limits on support types to be set by Ministerial instrument rather than by individual assessment, even where a participant's actual needs and risks would justify a higher level of support. That approach contradicts the Disability Royal Commission's emphasis on properly resourced, person-centred support and the UNCRPD requirement that supports be tailored to individual needs rather than driven by arbitrary ceilings.

“ There are people in disability groups online discussing voluntary assisted dying if they have to go back to being house bound due to lack of support to access the community ”

- Person with a disability

SWAN is equally concerned that Schedule 4 embeds those caps into the new budget calculation algorithm for New Framework Plans through the changes to section 32K, including subsections 32K(3C) - (3E). These provisions mean that when the NDIA calculates total budget amounts and funding components under the new algorithm, the calculations must conform to any caps set by the Minister's section 33 instruments and cannot exceed them - regardless of individual circumstances. In practical terms, this shifts real power over how much support people can ever receive away from transparent, participant-facing planning and into behind-the-scenes Ministerial instruments, with caps then hard-wired into plan budgets.

The Disability Royal Commission rightly warned against systems that ration support through blunt rules and quotas. Furthermore, the UNCRPD requires States to progressively realise rights, not to normalise legal ceilings that prevent people with disability from getting the supports they actually need to live safely and participate in their communities. These funding caps are likely to particularly impact people with high and complex support needs, risking their safety.

The unilateral Ministerial powers in proposed section 34A to cut funding without Parliamentary oversight or agreement of states and territories are so broad and dangerous that they must be removed from the Bill entirely. The new cap-setting powers in amended section 33 and new subsections 33(2EA) - 33(2EB), and the budget-method provisions in amended subsections 32K(3C)–(3E), are likewise too broad and dangerous, requiring removal from the Bill. These provisions would allow the Minister, by legislative instrument, to set maximum amounts, intensities, and ratios for supports and to have those caps hard-wired into the way participant budgets are calculated. This enables large, indiscriminate reductions to participant funding through instruments made outside the full scrutiny that attaches to primary legislation.

At an absolute minimum, Parliament should not permit any power that allows such broad, scheme-wide cuts to participant funding without:

- A clear requirement for individual assessment and consideration of risk in every affected plan
- Transparent criteria and rights-based safeguards written into the Act itself, not left to future instruments
- Independent oversight and meaningful Parliamentary scrutiny of any determination that reduces available supports; and
- Enforceable internal and external review rights for every participant whose plan is affected by a Ministerial instrument or cap.

A law that lets the Minister of the day cut supports at scale in the name of 'sustainability' will not secure the future of the NDIS. It will drive people with disability backwards, increase preventable deaths and violence, and undo decades of disability rights progress recognised by the Disability Royal Commission and required under the UNCRPD.

Automation, Compliance Powers and Debts

SWAN is deeply concerned that the Bill expands automation, compliance and debt-related powers in ways that further undermine procedural fairness for people with disability. Procedural fairness, or natural justice, means that before the Government makes a decision that harms a person's rights or interests, the person should have a real opportunity to know

what is alleged, respond to it, and have the matter decided fairly. These are not technical extras - they are basic protections against arbitrary and harmful Government action.

The Bill introduces a new legislative framework for automated decision making by the NDIA in proposed sections 59B, 59C, 59D and 59E. Proposed section 59B would allow the NDIA to arrange for computer programs to take 'administrative action' on the CEO's behalf, including action involving a discretion, an evaluative judgement or the forming of a state of mind. Proposed section 59C initially designates section 33, section 45, section 45A and section 45C for this purpose, and proposed subsection 59C(2) would allow the Minister to expand automation to other provisions later by legislative instrument. While the Bill includes some safeguards, including standard operating procedures and notice requirements in proposed sections 59D and 59E, the overall effect is still to normalise automated decision making in a system that many participants already experience as inaccessible, confusing and punitive.

SWAN is disturbed by the proposed expansion of compliance and enforcement powers in Schedule 2, Part 2 of the Bill. These amendments give the NDIA broad monitoring and investigation powers in relation to a wide range of provisions in the Act, including through proposed sections 73ZSA and 73ZSB. Proposed section 73ZSL requires the Minister to make a determination setting conditions for the exercise of these powers against participants and prospective participants, and proposed section 73ZSM allows the Minister to determine when those powers must not be exercised. Those safeguards are cautiously welcomed, but they are not a substitute for clear primary legal protections. They depend on future legislative instruments, not rights guaranteed on the face of the Act. In practice, this means the breadth of the NDIA's coercive powers is set in the Bill, while many of the protections are postponed to later rule-making.

The Bill also expands the NDIA's power to compel information from participants and prospective participants. Item 12 of Schedule 2 inserts proposed subsection 53(3), creating a civil penalty of 60 penalty units (currently a fine of \$19,800) if a person refuses or fails to comply with a requirement to give information or produce a document under subsection 53(1). Further items in Schedule 2 also expand the content and effect of notices under sections 53 and 54, including allowing notices to require a person to appear before an Agency officer to answer questions. This is a significant escalation in the compliance framework. It increases legal exposure for participants, but does not create matching, disability-specific rights to advocacy, communication support, procedural adjustments or supported decision making when a notice is issued.

The Bill also creates new record-keeping and debt risks. Item 83 inserts proposed section 45B, which requires records to be kept for:

- Participants – three years
- Nominees – five years
- Providers – seven years

Item 86 then replaces subsection 182(4), so that if a person makes a claim and receives payment, they are required to keep records under section 45B. Any failure to comply with the section 45B requirement will automatically incur a debt of the full payment claimed. We note that the Bill does not put clear, disability-specific exemptions or defences on the face of the Act that would protect participants whose record-keeping failures are linked to disability, disadvantage or circumstances beyond their control, and the Bill does not clearly add these new record-keeping debts to the list of reviewable decisions, leaving participants

with at best uncertain merits review pathways. This is a very serious and harmful change that lacks procedural fairness.

This provision enables the application of an automatic debt against people with disability – a debt which, in practice, may be very difficult to challenge effectively. **Robodebts could be appealed, and NDIS participants and nominees must have the same right to appeal debts**, especially given that NDIA itself has identified a very high error rate in past debt decisions. NDIA's own public reporting shows that [24.2% of 475 debts applied between 2017 and 2024 contained errors](#).

The NDIA requires that self-managed participants upload invoices, receipts or other evidence to the NDIS Portal with each funding claim made. The NDIA considers plan implementation support to new and existing participants to be optional - contrary to extensive advice provided to the NDIA by participants and advocate members of the Better Planning Working Group, tasked with addressing inter-plan and intra-plan inflation. Because plan implementation support is deemed 'optional', it is almost never provided. This means that NDIA and NDIS Partners In The Community (PITC) very rarely explain to participants and nominees approved to self-manage NDIS funding that they are required to keep records for at least five years (current requirement). SWAN provide this information to every participant or nominee self-managing NDIS funding that we provide Information, Linkages and Capacity building (ILC) support to.

Alarmingly, the Bill puts no enforceable duty on the NDIA to proactively inform every participant and nominee about their legal obligation to keep records and provide them on demand, the potential fine of \$19,800 (or more) for failing to do so, or the fact that debts will automatically be applied if a participant or nominee fails to produce a document related to the claim that the NDIA demands they produce. Likewise, there are very minimal limitations on the types of documents that the NDIA can demand participants / nominees provide. For example, there are no limitations to prevent the NDIA from demanding a participant supply documentation they are unable to access (eg. therapy case notes). Worse – failing to provide these documents could result in a fine of \$19,800 or more, along with a debt being applied to the claim that is not clearly recognised as a reviewable decision under the Bill.

It means a person can become liable for a debt, not because the support was fraudulent or not delivered, but because the required records were not kept in the way later required by rules. This means that if the participant or nominee is not advised by the NDIA that they are required to keep records, they could be fined and automatically issued a debt. Likewise, if the participant's records are inadvertently destroyed through fire, flood or computer storage loss – they will automatically incur a debt that may be extremely difficult to challenge in practice and potentially be fined \$19,800.

The lack of fairness in this provision is incredibly shocking and breaches human rights. Many survey respondents compared the requirements in this provision as 'unfair' or as 'criminalising participants', as well as comparing it to requirements in other schemes such as Medicare, where there is no requirement to keep records of rebates.

The provision enabling participants and nominees to be fined 60 penalty units must be removed, and NDIS debts must be clearly added to the section 99 reviewable decisions and section 100 internal review framework, so that participants have an explicit right to merits review of any debt decision.

Community concerns about record-keeping requirements and penalties



Respondents were asked what concerns they had about proposed record-keeping requirements and penalties under the NDIS Bill. Most respondents were concerned that people could face debts or penalties even when supports were genuine and already evidenced through claim records. Respondents could select more than one answer.

Main concerns



71.98%
(732)

Already upload receipts with claims

Respondents said it is unreasonable to require participants and nominees to keep extra records as well.



68.24%
(694)

No one explains the rules and penalties

Respondents said NDIA rarely provides plan implementation support, so participants and nominees may not be told what is required.



62.14%
(632)

Debt if a receipt is lost

Respondents were concerned that NDIA could apply a debt if a receipt is lost, and that debt cannot be appealed.



60.08%
(611)

Fine for lost receipts or missing records

Respondents were concerned that people could be fined if they lose a receipt or fail to keep records.

Other responses



11.90%
(121)

I don't have any concerns about the record-keeping requirements and penalties



7.47%
(76)

Other



88.10%

of respondents expressed concern about these proposed record-keeping requirements and penalties.

SWAN survey findings

As shown in the infographic above, when asked what concerns survey respondents have about the record-keeping requirements and penalties that could be introduced if this Bill is passed, 11.90% of respondents (121) did not have any concerns. 88.10% of respondents expressed significant concern about the risks of this provision.



The participants with dual roles: self directing their own supports as both participant and provider (employee): no clarity has been provided around if those records are expected to be kept for 3 or 7 years.



– Self managing NDIS participant

The Bill also shortens the period for making claims. Item 89 amends paragraph 45A(5)(a) to reduce the claim period from two years to 90 days, with late claims only allowed in 'exceptional circumstances'. On paper this may look like an appropriate integrity measure. In practice it creates a much harsher environment for people who self-manage or otherwise deal with invoices, receipts and claims while living with disability, fatigue, trauma, executive functioning barriers, communication barriers or caring responsibilities, and may lack the capacity to hound providers for invoices not received.



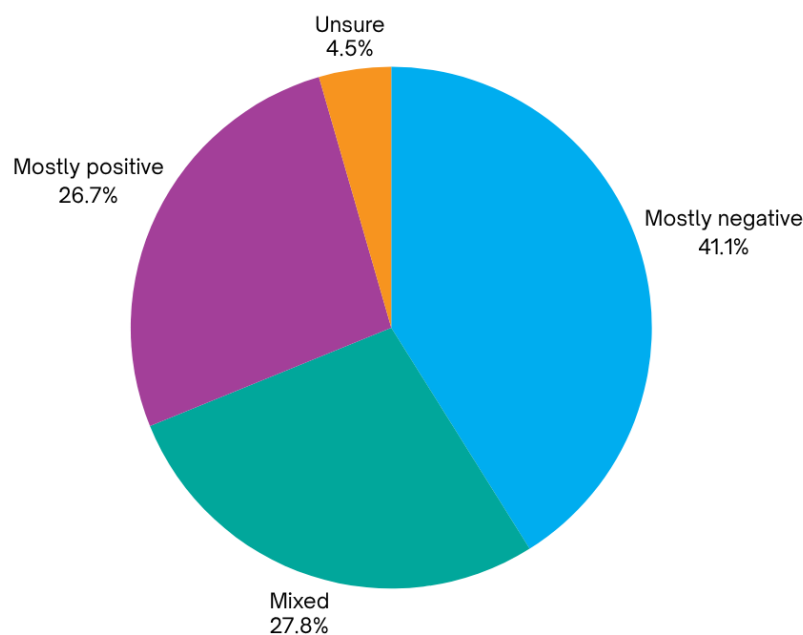
How can some participants keep receipts and records? Seriously this needs some common sense applied to it and somebody designated to look out for the participants who can not do this for themselves - and it needs to be NDIS to do this and not some external company.



- Carer

As shown in the pie graph below, 41.13% of survey respondents predicted a mostly negative impact if the Government requires all claims for NDIS supports to be lodged within 90 days of the service being delivered (instead of up to 2 years).

Impact of 90 days for claims to be lodged (instead of up to 2 years)



Survey respondents repeatedly warned that the reform agenda assumes levels of literacy, executive functioning and emotional capacity that many participants simply do not have. We note also that people would be forced to pay out of pocket if providers invoice after the 90 day deadline, or if invoices are missed. This fails to consider the high number of people with disability and families living in poverty. For context, 37.63% of survey respondents identified as being in a low-income household.

Of the 1,026 participants who responded to this question, 26.61% of respondents felt this change would be mostly positive as it would help people keep track of their budgets, and 27.78% reported feeling mixed about the change, recognising that there could be both positive and negative impacts.

SWAN recommends scaling the period for lodging claims down over time. 12 months for the first year, six months for the second year, and 90 days thereafter, with a positive

requirement for NDIA to ensure that participants are advised of the change. This enables time to ensure that participants, nominees and providers are made aware of the change and to reduce the risk of participants being forced to pay out of pocket for missed or lost invoices and/or provider mistakes in invoicing.

“ Job losses, business closures, participant loss of providers who know them and offer support tailored to their needs, lack of choice and control will all be consequences of these changes. Nothing good comes from this for participants. ”

– Person with disability

SWAN is particularly concerned that the Bill strengthens compliance and debt settings without fixing the existing gap in review rights for debt decisions. Where a claim is paid but required records are not kept, the person will automatically owe a debt under proposed subsection 182(4). However, the Bill does not add the core decision that a debt exists to the reviewable decision list in section 99.

Instead, Item 48 adds only two new reviewable decisions: a decision to give a compliance notice under proposed subsection 73ZSI(1), and a decision to vary or revoke a compliance notice under proposed subsection 73ZSI(5). That is important because it shows Parliament has chosen to add new review rights in some areas, but not for the central debt-raising decision itself. In other words, participants may face stronger compliance powers, record-keeping liabilities and debt exposure, while still lacking a clear, direct merits review pathway for the original debt decision.

“ Invoices should be automatically logged by the NDIS when claims are processed. There is no need for this to be a participant responsibility. ”

– Person with disability

This is a profound procedural fairness problem. A person whose interests are adversely affected by a government decision should have a genuine opportunity to know the case against them, respond to it, and have the decision independently checked. When the State can raise a debt but does not provide a clear merits review pathway against the making of that debt, practical justice is denied. The fact that later decisions, such as waiver or recovery decisions, may sometimes be challenged is not the same thing as a full right to contest whether the debt should have been raised at all.

“

I'm concerned that participants will be left to personally pay the bill when Plan Managers have lost or refused to process invoices, or if providers have been slow to submit invoices. This would be extremely unfair, especially given the lack of education provided to participants about their financial risk / duty in these situations. 90 days is a joke. Completely out of keeping with Medicare and private health insurance which both allow two years.

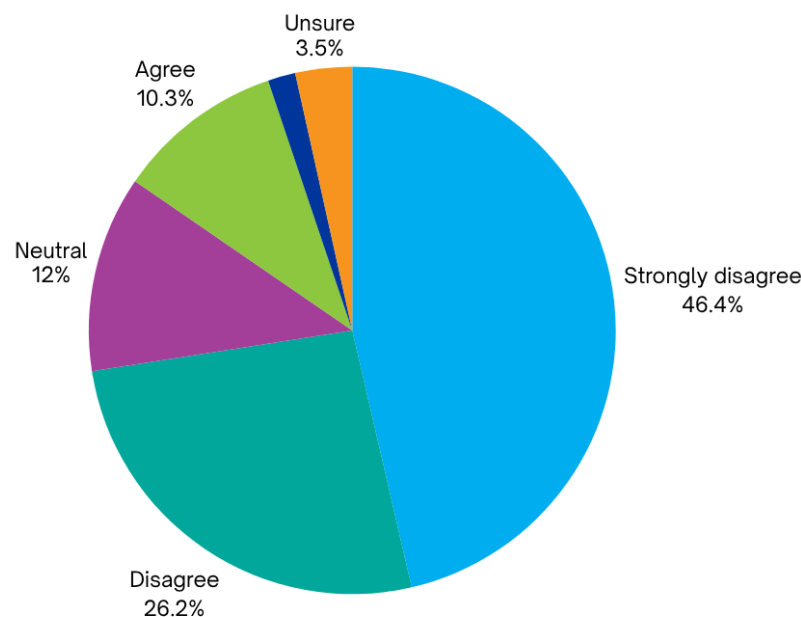
– Person with disability/carer

”

SWAN is also concerned that increased automation will make these problems significantly worse. The Bill expressly allows automated decision making under proposed section 59B, and the Explanatory Memorandum makes it clear this is intended to cover payment and rejection of claims and may later be expanded to other areas. Automated or semi-automated systems reduce explanation, reduce flexibility, and reduce the opportunity for context to be considered before an adverse outcome occurs.

This is especially dangerous in disability systems, where misunderstanding communication style, executive function difficulty, trauma responses or support needs can easily be misread as non-compliance.

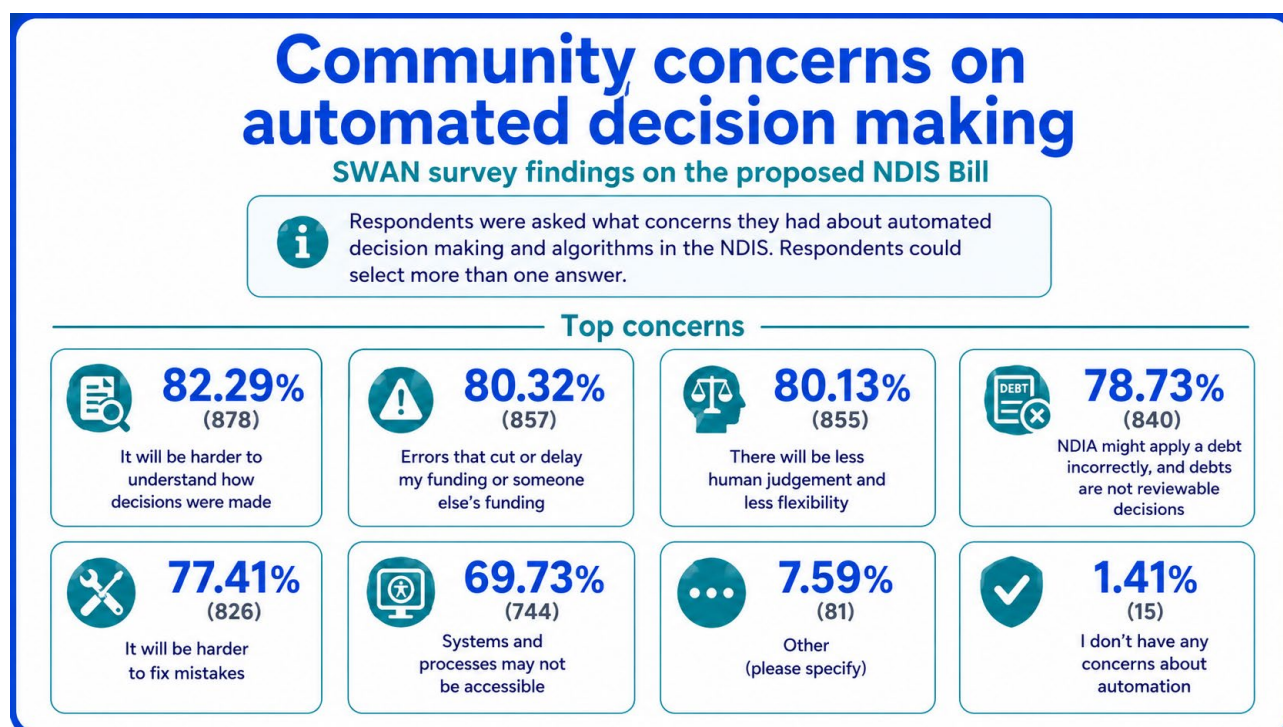
What is your view on more automation (like processing claims and payments)



As shown in the pie graph above, survey respondents were asked for their view on the proposed Bill changes that would allow more tasks to be done automatically by computer systems. Of the 1,062 survey respondents who answered this question, 11.95% of people reported that they agreed or strongly agreed, 11.96% indicated a neutral stance, and 72.60% reported that they disagreed or strongly disagreed with the proposal to increase automation.

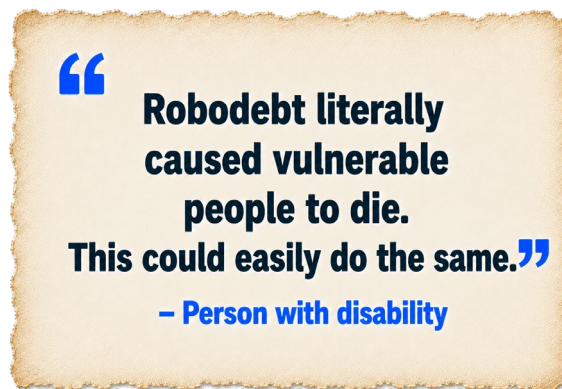
**“ As long as automaton
is not used to determine
funding or to settle disputes ”**
– Person with disability

The lesson from Robodebt is that unlawful and harmful systems do not begin with one dramatic failure. They begin when Governments normalise automation, suspicion, reversal of burdens, weak review rights and poor procedural fairness. The Robodebt Royal Commission showed the devastating human cost of an administrative system built on those features. SWAN's concern, clearly shared by respondents to our survey, is that this Bill moves the NDIS further in that direction by combining automated decision making, stronger compliance tools, shorter claim periods, strict record-keeping rules and debt consequences, without putting equally strong procedural fairness protections in place.



As can be seen in the infographic above, survey respondents reported a number of concerns associated with the proposal to increase automated decisions in the NDIS. Of the 1,067 respondents who answered this question, the top 5 concerns were:

1. It will be harder to understand how decisions were made (82.29%)
2. Errors that cut or delay my funding or someone else's funding (80.39%)
3. There will be less human judgement and less flexibility (80.13%)
4. NDIA might apply a debt incorrectly, and debts are not reviewable decisions (78.73%)
5. It will be harder to fix mistakes (77.41%)



The Robodebt Royal Commission made a series of recommendations and findings about the future of automated decision making, the use of algorithms and other related matters. These should be carefully scrutinised in conjunction with this Bill and others to ensure that we do not repeat the mistakes of the past. SWAN has noted some apparent conflicts with the Robodebt Royal Commission's recommendations that exist in the Bill, which are outlined below.

The Robodebt Royal Commission recommendations include:

Recommendation 17.1: Reform of legislation and implementation of regulation

'The Commonwealth should consider legislative reform to introduce a consistent legal framework in which automation in Government services can operate. Where automated decision-making is implemented:

- *there should be a clear path for those affected by decisions to seek review*
- *departmental websites should contain information advising that automated decision-making is used and explaining in plain language how the process works*
- *business rules and algorithms should be made available, to enable independent expert scrutiny.'*

Schedule 3, Part 2 of the Bill gives the NDIA express legislative authority to use computer programs (ADM) for administrative actions, including making evaluative determinations, processing claims, and approving plans. However, there is no whole-of-Government framework in place to ensure these safeguards are met. Currently, participants cannot see or review the information the automation relies on to make decisions. Errors made by ADM (such as incorrectly applying a debt) are not reviewable decisions, and the algorithms themselves are currently not subject to the independent expert scrutiny recommended by the Royal Commission.

There is transparency in other non-automated decision-making in Government policy – for example, the Impairment Tables, the charts used to assess level of functional impairment for eligibility for the Disability Support Pension, are publicly available and published documents. A lack of transparency may be severely detrimental to a person with disability if they do not understand the business rules being applied. For example, if an autistic person develops schizophrenia and requires ongoing care in a different setting or requires more care for that specific impairment, they and those who support them should be able to access and understand the business rules for decisions made by automatic decision making. This may also apply in reverse, that rule making may adversely affect budgeting decisions in a way that creates a 'false underspend'.

Recommendation 18.1: Comprehensive debt recovery policy for Services Australia

'Services Australia should develop a comprehensive debt recovery management policy which among other things should incorporate the Guideline for Collectors and Creditors' issued by the Australian Competition and Consumer Commission (ACCC) and the Australian Securities and Investments Commission (ASIC). Examples of such documents already exist at both federal and state levels. Any such policy should also prescribe how Services Australia undertakes to engage with debtors, including that staff must:

- *ensure any debt recovery action is always ethical, proportionate, consistent and transparent*
- *treat all recipients fairly and with dignity, taking each person's circumstances into account before commencing recovery action*
- *subject to any express legal authority to do so, refrain from commencing or continuing recovery action while a debt is being reviewed or disputed, and*
- *in accordance with legal authority, consider and respond appropriately and proportionately to cases of hardship.*

Services Australia should ensure that recipients are given ample and appropriate opportunities to challenge, review and seek guidance on any proposed debts before they are referred for debt recovery.'

These are essential considerations if applied to NDIS participants, who are often exceptionally marginalised and therefore vulnerable.

Under Schedule 2, Part 4, the Bill establishes mandatory record-keeping obligations, requiring participants to retain records of their claims for three years (five years for nominees). If a participant fails to keep these records for a paid claim, they automatically owe a debt to the NDIA for that amount.

The Bill does not allow for any exemptions or defences to this rule; for example, if a participant's house burns down, destroying their records, or if they are displaced from their housing and lose access to records.

Automatically raising debts without the ability to consider individual circumstances, vulnerabilities, or financial hardship would not be in line with the Royal Commission's requirement for empathetic and proportionate debt recovery.

“ I think the debt issue is especially concerning. If debts are applied incorrectly but are not reviewable decisions, that creates a major fairness and accountability problem... A person could potentially receive an incorrect debt, lose funding or supports... [and] struggle to even understand how the decision occurred without having clear review rights. ”

– Person with disability

Recommendation 10.1: Design policies and processes with emphasis on the people they are meant to serve

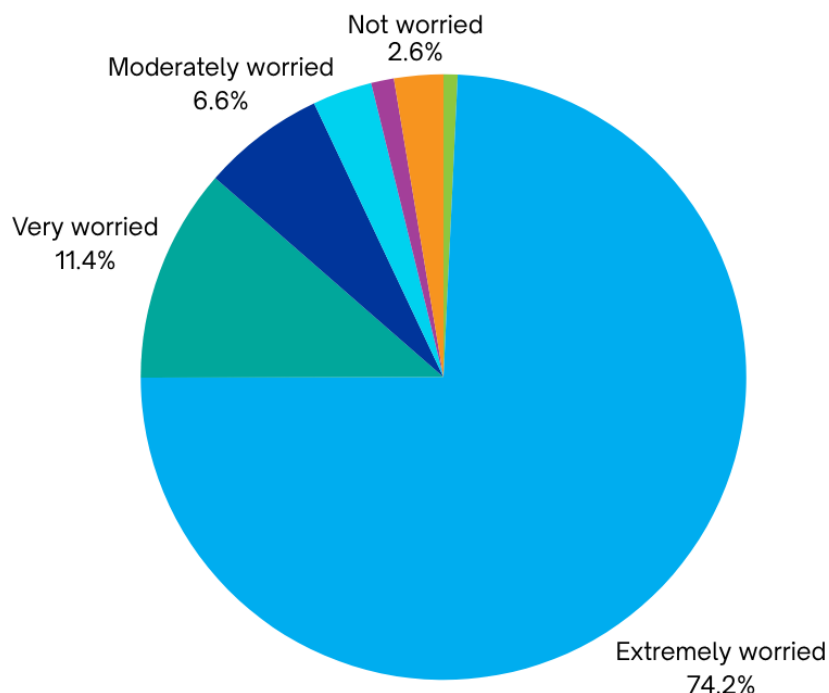
'Services Australia design its policies and processes with a primary emphasis on the recipients it is meant to serve. That should entail:

- *avoiding language and conduct which reinforces feelings of stigma and shame associated with the receipt of Government support when it is needed*
- *facilitating easy and efficient engagement with options of online, in person and telephone communication which is sensitive to the particular circumstances of the customer cohort, including itinerant lifestyles, lack of access to technology, lack of digital literacy and the particular difficulties rural and remote living*
- *explaining processes in clear terms and plain language in communication to customers, and*
- *acting with sensitivity to financial and other forms of stress experienced by the customer cohort and taking all practicable steps to avoid the possibility that interactions with the Government might exacerbate those stresses or introduce new ones.'*

The Bill introduces strict rules empowering the NDIA to abruptly suspend, and eventually revoke, a participant's plan if they are 'uncontactable' for 90 days. This mechanism fails to account for participants who may be unreachable due to hospitalisation, mental health crises, or cognitive challenges, posing a severe risk of cutting vulnerable individuals off from essential supports.

As shown in the graph below, of the 1,066 survey respondents who answered this question, 92.21% reported being moderately, very, or extremely worried about the proposed changes that would allow the NDIA to suspend a plan, and possibly cancel a participant's NDIS status if they cannot contact the participant for a period of time, even if the person has not done anything wrong. SWAN received an additional 296 comments addressing this concern.

How worried are you that NDIA would be able to suspend or cancel someone's NDIS Plan if they cannot contact them?

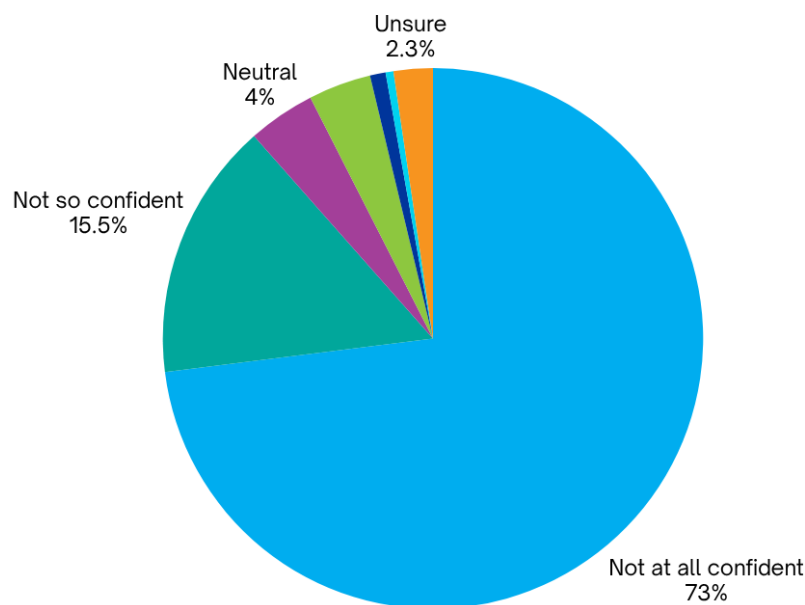


Additionally, the Ministerial Determinations that cut funding across the scheme, creating confusing outcomes where a planner might assess a support as 'reasonable and necessary'

for a participant, but a blanket Ministerial cap prevents the participant from actually spending the funds.

Mistakes are often made by large bureaucratic systems - the difference when suspending a service for a disabled person is that the service or support may be the thing that enables them to continue living. As shown in the pie graph below, people with disability, families and providers are very familiar with NDIA's track record in providing accessible communication methods. 88.47% of the 1,067 people who responded to this question said that they were not so confident or not at all confident that NDIA's communications are accessible and reliable enough to avoid people being wrongly suspended.

How confident are you that NDIA letters, emails, phone calls and online systems are currently accessible and reliable enough to avoid people being wrongly suspended?



Phone contact itself is often ineffective and unsafe. Calls from private or unfamiliar numbers are commonly ignored because scam calls are widespread and because callers often begin by asking for personal identifying information, which is exactly what scammers do. In that context, participants are acting rationally and safely when they do not answer or do not engage with unexpected calls claiming to be from the NDIA. It is not acceptable to punish people with disability for protecting themselves from scams. The Bill as drafted leaves too much room for the NDIA to treat unanswered or unverified calls as evidence of non-engagement, rather than as a predictable response to unsafe communication practices.

Text messages are sometimes used to signal that an NDIA staff member will call, but this practice is inconsistent. Participants and families report that staff frequently forget to send a text notification, leaving people with no safe or reliable way to verify whether a caller is genuinely from the NDIA. For participants with anxiety, trauma histories, executive functioning disability or previous coercive system contact, this inconsistency can be enough to prevent engagement altogether.

“ Not very confident, honestly. I think a lot of people - including participants, families, and providers - already experience significant challenges with NDIA communication systems. And those challenges can have serious consequences even before adding powers like suspension or cancellation for non-contact.

Common issues people already report include:

- long wait times
- inconsistent information between staff
 - missed callbacks
 - confusing letters
- difficult-to-understand language
 - online portal issues...

– Allied Health Professional

The Disability Royal Commission emphasised that people with disability, particularly those with trauma histories or psychosocial disability, need predictable, transparent, verifiable processes to feel safe engaging with services. The Bill does not incorporate those lessons into the design of the suspension power.

SWAN is also concerned by reports that NDIA staff have changed participants' nominated contact preferences from email to phone against their wishes. Participants say this often occurs because staff prefer verbal contact and seek to avoid written communication, even though written advice creates accountability and gives the participant a record of what was said.

Where the Agency changes contact preferences unilaterally and then relies on failed phone contact as evidence that a participant is 'uncontactable', any suspension process that follows is not fair. It is structurally stacked against the participant and inconsistent with the UNCRPD's requirement to respect people's expressed preferences and support their autonomy in interactions with public authorities.

This raises serious issues of procedural fairness and disability accessibility. Before suspending a plan because the NDIA *claims* it cannot contact a participant, the law should require the Agency to use the participant's nominated communication methods, to make genuine and repeated attempts across multiple accessible channels, to consider whether the person needs communication support, and to ensure that contact attempts are verifiable and safe. The Disability Royal Commission has been clear that procedures must be adjusted to accommodate disability-related communication needs. Anything less creates a real risk that people will be treated as 'missing' when, in fact, the Agency has simply failed to communicate in an accessible way.

“ The person could be in a coma or homeless for all they know. ”

– Person with disability

The consequences of plan suspension or cancellation are severe. If a participant's plan is suspended, supports may stop even though the person still needs assistance with eating, showering, medication, behaviour support, communication, transport, supervision or community access.

This can put people at immediate risk of neglect, family breakdown, hospital admission, homelessness, abuse and preventable crisis. The Royal Commission documented the ways in which withdrawal of support and sudden changes in services can directly lead to violence, abuse and avoidable institutionalisation. A suspension power that can be triggered by communication failures builds that risk into the law.

These risks are even higher for participants who already face communication barriers: autistic people, Deaf people, blind people, people with psychosocial disability, people with intellectual disability or acquired brain injury, people who use AAC, and people who need support to read, understand or respond to correspondence.

The Disability Royal Commission found that these groups are already more likely to experience service gaps, barriers and abrupt changes. A plan suspension power that does not explicitly account for those realities will predictably harm the very people the NDIS exists to support and will be inconsistent with the UNCRPD's requirements to ensure continuity and accessibility of support services.

“ I’m autistic and phone calls give me debilitating anxiety. I can take a month to return a call from my friend even when I want to talk to her... And it’s more likely to happen if I’m really anxious, e.g. if I know I’ll be severely punished if I miss a call. ”

– Person with disability

“ I recently transferred to PACE, I now can no longer screenshot, Print to PDF, or READ the portal (web as cant use app). In the old system I still couldn't READ (vision impaired) the portal but the workaround was to screenshot/Print to PDF. So many people will be caught out by this all because government(s) wouldn't know/understand accessibility if it bit them in the ass.

Given they are notorious for claiming they have made contact when they couldn't have (rung me, they don't have my phone number as I had to remove it as they ignored EMAIL ONLY flag on file). Its going to be so easy for NDIA to claim contact was made. Let's assume they make sending letters compulsory, people with disabilities are still going to get caught out, can't read, don't understand, print too small, got lost etc etc ”

– Person with disability

For these reasons, SWAN opposes any plan suspension or cancellation power based on 'failure to make contact' unless the Bill is substantially amended. At a minimum, the legislation should:

- require the NDIA to use the participant's nominated communication methods and prohibit unilateral changes to contact preferences
- require multiple, documented attempts across accessible and verifiable channels before any suspension is even considered
- require decision-makers to consider disability-related communication barriers, trauma, safety concerns and past system abuse, and
- prohibit suspension of essential supports unless the Agency can demonstrate it has taken all reasonable

steps to communicate in ways the participant can actually receive and trust, consistent with the Disability Royal Commission's recommendations and the UNCRPD.

A disability support system should never withdraw essential supports because of its own inaccessible communication practices. Any contact-based suspension power that ignores this reality is unsafe, unjust and incompatible with a rights-based NDIS.

“ I am not against automation in itself. However, the Government(s) have shown time and time again that they can't get it right. AI and LLM (Large Language Model) are NOT smart enough to be across all nuances etc without constant human oversight. ”
– Person with disability

These concerns are also supported by the Disability Royal Commission and Australia's obligations under the UNCRPD. The DRC repeatedly found that people with disability are exposed to harm when systems are inflexible, difficult to navigate, and fail to provide accessible complaints, review and accountability mechanisms.

The UNCRPD requires Australia to ensure equal recognition before the law, effective access to justice, freedom from exploitation, violence and abuse, and access to the supports needed to exercise legal capacity and participate in the community on an equal basis with others. A compliance and debt regime that is highly automated, hard to challenge and difficult to navigate is inconsistent with those principles.

For these reasons, SWAN opposes any expansion of automated compliance and debt powers unless Parliament first fixes the existing procedural fairness failures in the NDIS Act.

At a minimum, the law should be amended to:

- Make the original decision that a debt is due to the Agency fully reviewable through internal and external merits review.
- Prohibit fully automated debt raising and adverse compliance decisions.
- Require accessible human decision making before any adverse action is taken against a participant.
- Require notices and processes to be disability accessible in practice, including communication adjustments and supported decision making where needed.
- Ensure participants are given clear notice, reasons, adequate time to respond, and access to advocacy and review support.
- Enshrine a statutory 'Right to a Human', allowing participants to immediately escalate an automated compliance flag to a human delegate without enduring a lengthy formal review process.
- Mandate a 'Right to an Explanation', requiring the NDIA to provide participants with accessible, plain English explanations of exactly how and why an automated system reached its conclusion, in line with international privacy standards like the [EU's General Data Protection Regulation \(GDPR\)](#).
- Require mandatory, independent algorithmic auditing of all NDIA automated systems to prevent the replication of systemic biases (e.g., racism, ableism, sexism) present in training data and mandate the public release of these audit results.
- Strictly limit the NDIA's information gathering, data matching and surveillance powers, ensuring that the deployment of automated systems adheres to strict data minimisation and privacy principles.



**“ Will the minister get to know
each participant? If not,
they have no right to determine
what a person needs or
doesn’t need. ”**
– Person with disability.

Australia cannot claim to have learned from Robodebt while preserving a system in which people with disability can still be pursued for debts without full procedural fairness. The Senate must amend these provisions so that integrity measures do not come at the expense of justice, safety and basic rights.

Changes to the Reasonable and Necessary Criteria

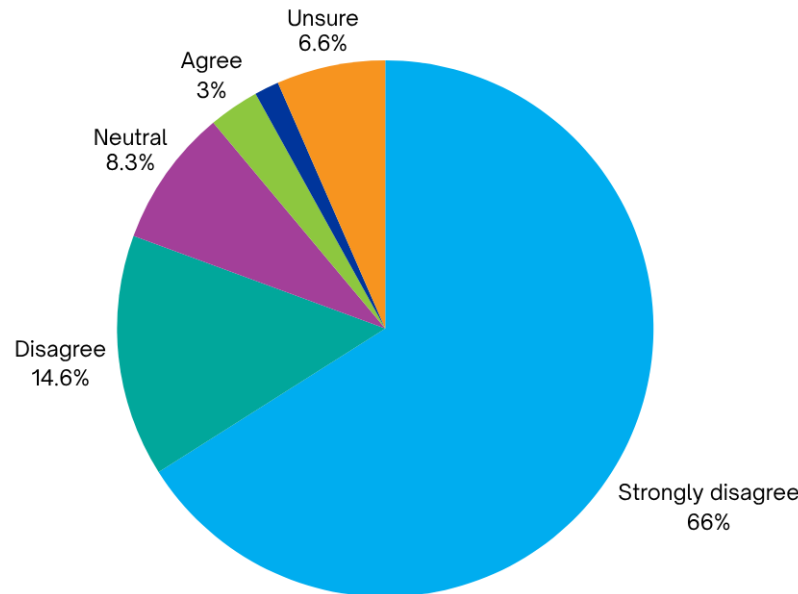
SWAN is profoundly apprehensive that the Bill changes how the ‘reasonable and necessary’ test works in ways that will narrow supports, standardise decisions and prioritise low cost over actual effectiveness, safety and benefit to the participant. The Government has said it will ‘clarify’ and ‘strengthen’ what counts as reasonable and necessary, but the Bill seeks to do this by amending section 3, inserting new section 17B, repealing section 31, and adding a long list of new subsections to section 34 of the NDIS Act (Schedule 1, Part 6).

Removing section 31 strips out the existing, vital statement of the kinds of outcomes and assistance the NDIS is meant to pursue, and makes it easier to recast ‘reasonable and necessary’ in narrower, cost-cutting driven terms. Taken together with the new planning and support needs assessment framework, these changes make it easier for the NDIA to refuse, limit or downgrade supports that participants genuinely need to live safely and well.

A central problem is that these amendments shift the scheme away from individualised decision-making and towards standardised budget methods and formula-driven judgments about what should be funded. The Bill replaces the existing ‘reasonable and necessary supports’ object with a new object that ties NDIS supports to ‘the financial sustainability of the scheme’ (amended section 3(1)(d)), and inserts new ‘scheme sustainability’ principles in section 17B requiring the CEO to prioritise sustainability, fund only supports that arise ‘directly’ from access-qualifying impairments, and distribute funding ‘fairly and consistently’ across participants with similar needs.

Together with new subsections 34(1)(aa), 34(1A)–34(1K), these provisions push decision-making toward averages and standardised caps rather than individual circumstances (the original intention of the scheme). In disability systems, this kind of ‘consistency’ commonly means complex people are squeezed into simplified categories and funded to an average instead of to their actual need, rather than being supported in all of their diversity.

What is your view of the NDIA being required to prioritise saving money and being “fair between participants” when making decisions?



As shown in the pie graph above, of the 1,083 survey respondents who answered this question, 80.61% reported that they disagree or strongly disagree with the proposal requiring NDIA to prioritise saving money and being ‘fair between participants’ when making decisions about what supports are ‘reasonable and necessary’. A further 271 comments were made regarding this issue.

When asking survey respondents what concerns them the most about this extra focus on cost and ‘fairness between participants’, 1,096 responded to this question, with the top 3 responses:

1. People treated like numbers, not individuals
2. Less individualised decision-making
3. More pressure on families and informal supports.

“ The NDIS returns \$2.25 for each dollar spent (on it). ”

– Person with a disability

“ Without support I nor my husband would be able to work. We would become entirely dependent on the government pension system. ”

– Person with disability

Community Concerns about Cost and 'Fairness Between Participants'

SWAN survey findings on the proposed NDIS Bill



Respondents were asked what concerns them most about the extra focus on cost and 'fairness between participants' when making decisions about what supports are 'reasonable and necessary'. Respondents could select more than one answer.

Top concerns



71.90%
(788)

People treated like numbers, not individuals



61.59%
(675)

Less individualised decision-making



60.58%
(664)

More pressure on families and informal supports



58.85%
(645)

More confusing and inconsistent decisions



56.57%
(620)

More cuts to individual plans



55.93%
(613)

Fewer people with disability and family members able to be part of the workforce



54.93%
(602)

Fewer jobs for Australian workers



1.55%
(17)

I'm not worried about this

SWAN is especially concerned that the changes prioritise low cost as a dominant consideration in the reasonable and necessary test.

“ No two people (with) disability have the exact same needs, therefore determining what's 'reasonable and necessary' will differ from person to person.”

– Person with disability

New subsections 34(1A)–34(1C) require the NDIA, when deciding whether a support is 'value for money', to prioritise cheaper, 'comparable' supports and to favour leasing over purchasing assistive technology where there is any short-term change expected in the participant's circumstances.

This creates a real risk that participants will be pushed toward cheaper supports, equipment or service models that are not actually effective or beneficial for them. A support is not good value simply because it costs less upfront. True value for money must consider whether the support works, whether it is safe, whether it prevents harm and whether it reduces longer-term costs across health, education, housing and justice systems.

For example, under these new value-for-money provisions a wheelchair user may be steered towards a cheaper wheelchair because it appears to save money in the NDIS budget. If that wheelchair is not properly fitted, does not provide adequate postural support or pressure management and leads to pressure sores, pain, injury or reduced mobility, it is clearly **not** value for money. It simply shifts cost and harm - from the NDIS to the health

system, and from the system onto the participant's body, life, relationships and employment. The same false economy can arise across assistive technology, therapy, behaviour support, continence products, communication devices, support worker arrangements and daily living supports.

These changes matter because the reasonable and necessary test was never intended to be a test for the cheapest possible support. Section 34 has always required supports to be related to disability, effective and beneficial, and to assist participants to pursue goals, function in daily life and participate in the community.

By hard-coding an obligation to compare costs and prefer cheaper 'comparable' supports, the Bill turns a needs-based test into a lowest-cost test.

“ It’s inhumane to forget the person behind the disability. The government and the minister forget that they are one bad accident away from joining us on NDIS - don’t be unkind to a system that may one day be your only assistance. ”

– Person with disability

If the NDIA is driven to choose low-cost substitutes rather than appropriate supports, the scheme will cease to be genuinely needs-based in practice and people with disability will be harmed by inappropriate and inadequate supports that do not meet their actual needs – in the same way that occurred in the old systems the NDIS was designed to replace.

“ We are not all the same people. Our needs are individual. We should be treated as such. Also our environments aren't the same. ”

– Person with disability

SWAN is also concerned that the Bill revives and strengthens 'other systems' defences in the reasonable and necessary test.

Proposed paragraph 34(1)(g) requires the CEO to refuse an NDIS support if it 'would be more appropriately provided or funded' by another scheme or existing Government service system, even where the support is on the 'in' list for NDIS supports. This sits alongside the new 'alternative supports' access test in section 25B.

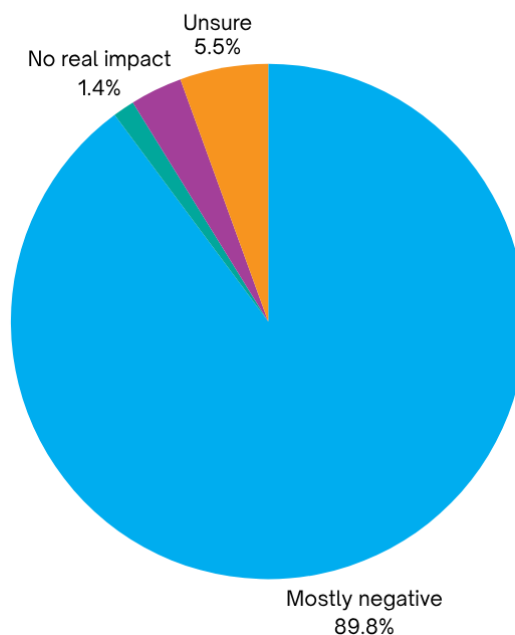
Together, these provisions make it easier for the NDIA to argue that health, education, housing or aged care should provide the support instead, or that a support should not be funded because it is not the lowest-cost way of addressing the issue. A support is not genuinely available from another system just because the law says it should be. If the service is unavailable, unaffordable, delayed, geographically inaccessible or unsuitable for

the person's complexity, then pushing the person out of the NDIS does not solve the need. **It simply relocates the harm.**

For autistic people and others with complex, lifelong and intersecting disabilities, the risk is even greater. Many effective supports are relational, prevent functional decline or regression and are highly individual. They may not look 'efficient' in a spreadsheet, but they prevent escalation, maintain regulation, support communication, preserve family functioning and reduce future crisis costs. The new 'directly arising from the impairment' requirement in subsection 34(1)(aa), and the way 'effective and beneficial' is re-interpreted in subsections 34(1E)–(1F) by prioritising generalised, peer-reviewed research over lived experience and treating-practitioner evidence, will make it harder to justify these kinds of supports.

As can be seen in the graph below, 89.82% of survey respondents felt that there would be a negative impact on people with multiple of complex needs if the NDIS only funds supports that are directly linked to the impairment used for access. Of the 1,100 respondents who answered this question, SWAN received an additional 267 (voluntary) comments. An example of these comments has been noted below, however the full list of comments can be accessed in the appendices.

What impact do you think it would have on people with multiple or complex needs if NDIS only funds support for impairment(s) approved for access?



When reasonable and necessary is interpreted narrowly in this way, the supports that are most preventative and most person-specific are the ones most at risk. In plain language, the individualised supports needed by people with complex, multi-faceted or rarer disabilities.

**“ My (disabilities are)
so complex that
this would be
catastrophic. ”**

– Person with a disability

Survey respondents repeatedly said the reforms would reduce flexibility, ignore evidence from people’s own lives and treating practitioners, make supports harder to access and force people to spend more time proving their needs inside bureaucracy.

They emphasised that many of the most meaningful outcomes in disability support are preventative and long-term: keeping people emotionally regulated, supporting families before burnout, helping children participate in school and preventing escalation and crisis. These are

precisely the outcomes that are undermined when decision-making is driven by immediate cost-cutting and standardised caps, rather than real benefit.

The interaction with other parts of the Bill makes this even more dangerous. Participants will face a new sustainability-first principles framework (section 17B), a narrowed ‘directly arising’ test in section 34, new value-for-money and ‘effective and beneficial’ rules in subsections 34(1A)–(1F), revived ‘other system’ arguments in paragraph 34(1)(g), and, at the same time, support determinations under section 34A and caps in statements of supports under subsections 33(2EA)–(2EB). Taken together, these changes create a system where participants can lose effective supports not because their needs have reduced, but because law and policy have redefined adequacy downward.

The human consequences will be very serious. If participants are pushed onto cheaper but less effective supports, they are likely to experience worsening physical health, increased distress, reduced participation, more family strain, greater risk of abuse or neglect and higher use of hospitals, emergency departments and crisis services. That is not sustainability. It is underfunding by another name, and it contradicts both the Disability Royal Commission’s call for properly resourced, person-centred, preventative supports and Australia’s obligations under the UN Convention on the Rights of Persons with Disabilities to ensure access to the supports needed for independent living and community inclusion.

SWAN does not oppose clear guidance or evidence-based decision-making. What SWAN opposes is the use of ‘clarity’, ‘consistency’ and ‘value for money’ as a cover for narrowing supports and forcing participants to accept low-cost options that do not meet their actual needs. The NDIS was meant to support people with disability to live ordinary lives with dignity, safety and autonomy, not to provide the cheapest support that can be defended on paper.

For these reasons, SWAN calls on the Senate to reject any changes to the reasonable and necessary criteria that give primacy to low cost and ‘scheme sustainability’ over effectiveness, safety and genuine benefit to the participant. Any reform must preserve genuine individual assessment, require decision-makers to consider long-term outcomes and cost shifting, and ensure participants are not forced to accept supports or equipment that are cheaper in the short term but ineffective, unsafe or harmful in practice. Without these safeguards, the Bill will turn one of the NDIS’s core protections into a mechanism for rationing, harm and exclusion, in direct contrast with the findings of the Disability Royal Commission and the rights guaranteed by the UNCRPD.

Narrowing of Supports

The Bill's narrowing of supports will not save money in any real sense. In many cases, it will increase costs by stopping participants from using flexible, practical and lower-cost options that work as well as, or better than, more expensive disability-specific alternatives.

When the scheme becomes more prescriptive about which supports, products or providers are 'acceptable', it reduces innovation, reduces participant problem-solving and locks people into higher-cost, more rigid pathways. This is directly at odds with the Disability Royal Commission's call for person-centred, flexible supports that are responsive to people's lives, rather than constrained by inflexible program rules, and with the UNCRPD obligation to support independent living and full inclusion in the community.

The Bill's changes to 'reasonable and necessary' and support categories sit within a wider reform direction that makes the scheme more rules-bound and substantially less flexible – in opposition to the recommendations of the [Independent NDIS Review](#). When combined with stricter lists of what counts as an 'NDIS support' and rules that push decision-makers towards particular kinds of providers and products, these amendments will make it harder for participants to choose safe, effective, low-cost mainstream options.

This is the opposite of genuine value for money. A participant who can solve a problem safely, effectively and cheaply should be able to do so, not forced into a more expensive route.

In practice, this means more reliance on registered providers, disability-specific products and formal service channels, even where ordinary community services and mainstream technology would work just as well. That does not improve outcomes. It simply increases cost and delay. At SWAN, we hear complaints about registered providers multiple times every week, but can count on one hand the number of complaints about non-registered providers that we have heard since the NDIS rolled out in 2018. Complaints about registered providers SWAN receive typically involve:

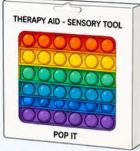
- General over-charging
- Charging for services not provided
- Frequent changes of support worker without warning
- No choice of support worker
- Failure to act on complaints made

The Disability Royal Commission highlighted the importance of choice and control, and warned against rigid systems that strip people of practical decision-making power in their own lives. The UNCRPD similarly requires that people with disability have access to the supports they need to live independently and participate in the community, including through accessible mainstream services and technology, not only through specialised or segregated programs. A narrowed supports framework that funnels people into high-cost options or forces us to purchase from a single body, provider or panel undermines these obligations. In addition, it creates additional burden on the taxpayer. Many people with disability call this the 'disability tax',

Wheelchair repairs provide a clear example of how the 'disability tax' operates. Often, a local bike repair shop can safely repair a damaged wheelchair wheel quickly and at much lower cost than a specialist mobility equipment provider. The outcome is the same: the wheelchair is repaired and the participant regains mobility. But the local repair option is significantly cheaper and often much faster to access. A system that is so narrow that it

effectively forces participants into higher-cost repair pathways is not efficient. It is wasteful. It shifts public money into more expensive channels for no net benefit and often at the cost of longer wait times and reduced independence.

Augmentative and alternative communication (AAC) is another example. A disability-specific communication device can cost many thousands of dollars, whereas an iPad with an AAC app can often deliver a high-quality communication outcome for a fraction of that price. If the scheme makes it harder to fund the lower-cost mainstream technology option simply because it is not packaged and marketed as a specialist device, the narrowing of supports drives public expenditure up, not down. It also delays access to communication and participation, which can have serious developmental, behavioural, educational and safety consequences for autistic people and others with complex communication needs. This is the kind of rigid, siloed thinking the Disability Royal Commission warned against.

The NDIS 'Disability Tax': Paying More for the Same Results The exact same item often costs 100% to 1,000% more when sold through specialist disability channels.				
Communication: Specialist devices vs. standard iPads	Mobility: Specialist tyres vs. bike shops	Home automation: "ECUs" vs. smart plugs	Daily living: Medical vs. retail Stools	Sensory Tools: "Therapy" vs. high street
Specialist supplier	Specialist supplier	Specialist supplier	Specialist supplier	Specialist supplier
 Specialist AAC device A\$14,495	 Wheelchair tyre A\$160	 Specialised environmental control unit A\$450+	 Height-adjustable aluminium shower stool A\$185	 Pop-it sold as a 'therapy' tool A\$30
Retail alternative	Retail alternative	Retail alternative	Retail alternative	Retail alternative
 iPad with AAC app A\$1,180 total	 BMX / bike tyre A\$55	 Smart plug A\$19.50	 Comparable shower stool A\$49.90	 Same pop-it at a mainstream retailer A\$3

These examples show why narrowing supports is fundamentally flawed. It assumes that the most legitimate support is the most specialised, when in reality mainstream products, local services and participant-led solutions are often cheaper, faster and equally effective. By reducing flexibility, the scheme prevents participants and families from finding common-sense solutions that work in real life. This contradicts the Royal Commission's emphasis on co-design, respect for lived experience and removing barriers in mainstream systems, and it undermines the UNCRPD requirement that States ensure access to affordable mobility aids, technology and community services on an equal basis with others.

SWAN is also extremely concerned that the narrowing of supports is tied to an increasingly expensive evidence burden placed on participants. Since late 2021, the NDIA has required lengthy and costly allied health reports before approving equipment, assistive technology, plan changes or any additional supports. Functional Capacity Assessment (FCA) reports alone typically cost \$2,300-\$3,500, with those costs being met from participant plans and, in aggregate, from the scheme itself. Depending on the complexity of the report required and the type of NDIS support the person is being assessed for, the cost skyrockets. Allied health reports assessing people for Supported Independent Living and/or Specialist Disability Accommodation, for example, commonly cost anywhere from \$6,000-\$11,000.

Importantly, NDIA will only consider a report that is less than six months old, meaning that by the time participants reach the end of the S48 plan change request queue (currently the only option for getting a plan reassessment for most participants due to NDIA automatically extending the vast majority of plans), well over six months have passed. It's then common for NDIA delegates to instruct participants to source another FCA and resubmit a new S48 plan change request. Alternately, an NDIA delegate may deny all supports recommended in a report.

This can require people to undergo second or third assessments to re-establish what is already known and documented: that their disability is permanent, their needs are well understood, and the question is simply whether a particular support is appropriate and proportionate. This is administratively irrational and deeply unfair. It generates churn and costs inside the scheme without improving decision quality or safety. It is directly at odds with the Royal Commission's call for simpler, trauma-aware, accessible systems and with the UNCRPD's demand that procedures be accessible and tailored to the needs of persons with disability.

These costs are hard to justify when the NDIA has publicly acknowledged that allied health reports submitted by participants as evidence are rarely read in full, and that some of the material they contain cannot be considered under the legislation. It is even harder to justify in light of the Disability Royal Commission's findings that excessive bureaucracy, inaccessible processes and burdensome documentation requirements exclude people with disability from the supports they need.

The cumulative cost of this approach is enormous (approximately \$1.55 billion per year). Even without precise figures, it is clear that redirecting a fraction of the resources currently absorbed by repeated high-cost assessments and lengthy reports would fund a significant amount of practical support, low-cost equipment, local repairs and mainstream technology. That is a far more credible pathway to sustainability than restricting flexible, common-sense supports or forcing participants onto higher-cost disability-specific products and provider pathways.

At present, the scheme is spending large sums on bureaucracy and duplicated evidence while claiming it must narrow supports to control costs. This approach cannot be reconciled with the Royal Commission's recommendations or with Australia's obligations under the UNCRPD to use resources in ways that actually support inclusion, autonomy and safety.

Survey responses strongly support this critique. Respondents consistently said the reforms would increase bureaucracy, paperwork, delay and administrative burden, and would force people to spend more time fighting the system instead of living their lives. They described the loss of flexibility and the removal of context-sensitive decision-making as direct threats to safety, participation and dignity. Narrowing supports is not just restrictive. It is inefficient, expensive and harmful, and it runs contrary to the rights-based approach the Disability Royal Commission and the UNCRPD require.

For these reasons, SWAN opposes any further narrowing of supports through restrictive lists, rigid categories or assumptions that privilege particular provider types or specialist products over safe, effective mainstream options. The Senate should:

- Ensure that the NDIS remains flexible enough to fund lower-cost mainstream options, local repairs, participant-led solutions and ordinary technology used for disability-specific purposes where these are safe, effective and good value.

- Address the waste and harm created by excessive report requirements and prohibit the NDIA from demanding repeated high-cost assessments where a person's disability and core support needs are already well established.

A scheme that blocks innovation and funds bureaucracy instead of practical supports is not being secured for the future. It is being made less efficient, less humane and less sustainable, in breach of the vision set out by the Disability Royal Commission and the rights protected by the UNCRPD.

Choice and Control

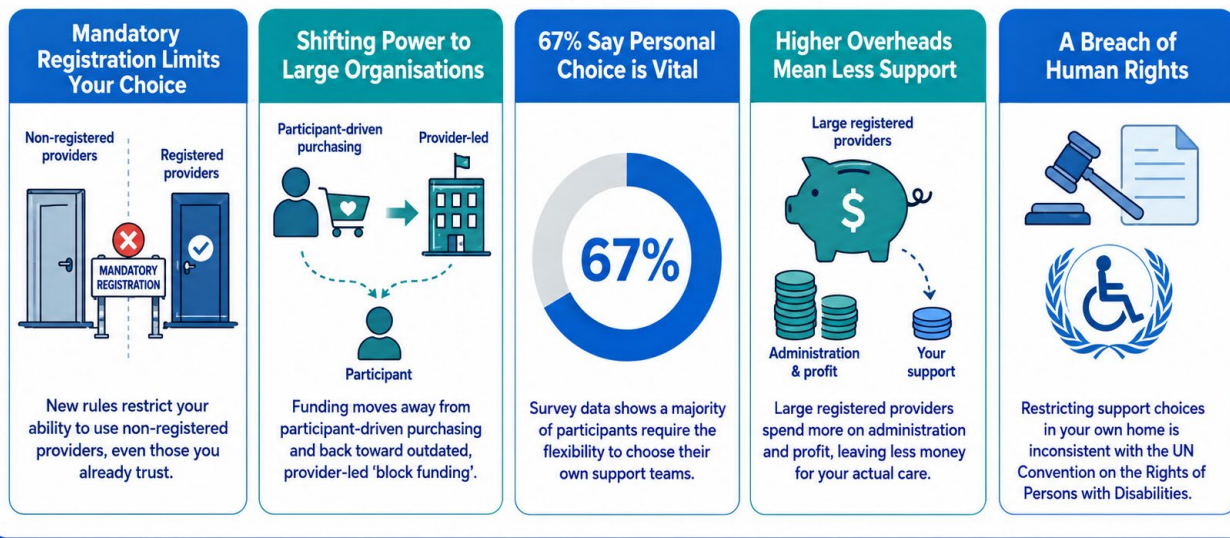
SWAN strongly opposes the Bill's move towards tightening provider registration and limiting the circumstances in which participants can use non-registered providers, especially in ways that would restrict self-management and plan management. These changes sit within Schedule 2 (fraud and integrity measures) and the new 'provider and worker registration' framework that will be implemented through rules under Part 3 of Chapter 4 of the NDIS Act. Read together with the Disability Royal Commission and the UN Convention on the Rights of Persons with Disabilities (UNCRPD), this direction represents a shift away from individualised funding and choice, and back towards a more block-funded, provider-centred model in which power sits with organisations rather than with people with disability.

A move towards mandatory provider registration for core supports, including personal care, is inconsistent with the Royal Commission's emphasis on choice, control and safe, trusted relationships, and with the UNCRPD requirement that people with disability have the right to choose their support providers on an equal basis with others, including in their own homes. Individualised funding was a core NDIS reform, intended to move disability support away from provider-driven block funding and towards participant-driven purchasing.

When funding is channelled through a smaller pool of registered providers, more money is absorbed by overheads, administration and profit margins, and less reaches the person with disability as actual support. This does not create efficiency. It recreates the same provider-centred system that the NDIS was meant to replace. As can be seen in the infographic below:

Choice vs. Control: The NDIS Registration Shift

The 'Securing the NDIS for Future Generations' Bill threatens to replace individual choice with a provider-centred system, shifting power from people with disability back to large organisations and government rules.



The impact will be especially severe in regional and remote Australia. SWAN's [submission to the Provider and Worker Registration Taskforce](#) and [submission to the Definition of a NDIS Provider](#) highlighted that many communities in regional Western Australia have no registered providers at all, and others have only one provider in practice despite looking like a 'market' on paper. This is due to providers registering for the entire state, but only having a physical presence and offering services in a small number of specific locations.

In these areas, participants rely on non-registered local providers because they are the only people available, the only people willing to travel, or the only people who understand the participant and community context. Any reform that effectively makes registration mandatory will drive the majority of small local providers, sole traders and mainstream professionals out of the NDIS space because the compliance burden is too high for the very small number of participants they support. In many regional communities it's common for NDIS participants to make up less than 5% of non-registered providers' client base.

The decision to bear the financial cost of registration and audit, including undertaking the burden of red tape is a business decision. Businesses will only undertake registration where the cost and workload of NDIS registration provides a return on investment. For most non-registered providers in regional Australia, there is simply no return on investment. That will leave many people in regional and remote communities with one provider or no provider at all, which is the opposite of choice and control.

These changes also have serious safeguarding implications. The Disability Royal Commission showed that people are at greater risk of violence, abuse and neglect when they have no real choice of provider and no safe way to complain. If a participant has access to only one provider, or can only receive supports from large agencies with long waiting lists, they may be unable to complain about violence or abuse for fear of losing the support they need to eat, shower, travel, communicate or get out of bed.

In small communities, this fear is entirely rational. A framework that narrows the provider pool, especially in personal care, therefore risks increasing, not reducing, violence and abuse. This is inconsistent with the Royal Commission's recommendations on safeguarding

and with the UNCRPD requirement to protect people with disability from exploitation, violence and abuse, including in institutional and in-home settings.

SWAN is particularly alarmed by the Government's stated intention that personal care supports should move to a registered-only model over time. Personal care is exactly the area where choice and control are most critical. Many people with disability have experienced violence, abuse and neglect, including sexual violence. Being forced to use a registered provider for personal care, where the provider organisation rather than the participant decides who enters their home and who performs intimate care, is a profound violation of autonomy and dignity.

People with disability have the same right as anyone else to decide who sees them naked, who assists them to shower or toilet, and who touches their bodies, including intimate parts. A model that removes that choice and gives it to a provider roster is not a safeguarding model. It is a model that tells people with disability that they do not have the same right as other people to control access to their own bodies, contrary to the UNCRPD's guarantees of bodily integrity and freedom from degrading treatment.

A 2022 report titled [Exercising meaningful choice and control in the NDIS: Why participants use unregistered providers](#), authored by Professor Helen Dickinson, Dr Sophie Yates, and Dr Raelene West, noted that people with disability and their families have several reasons for choosing unregistered providers. They included:

- **Real safety and trust:** For intimate personal care, people want to know exactly who is coming into their home. Participants reported feeling unsafe and anxious when registered agencies sent 'just anyone' or unknown workers due to high staff turnover. Choosing their own non-registered workers gave participants a sense of comfort and safety.
- **Flexibility and individualised support:** Registered agencies often have rigid, inflexible rules about how tasks must be done. Non-registered workers allow participants to direct their own care and train the worker to do things exactly how they need them done in their own home.
- **Attitude over qualifications:** The study showed that participants did not always value formal qualifications. In fact, some avoided highly trained workers because they came with pre-conditioned attitudes or a 'boxed-in' approach to disability. Participants cared more about finding a worker with the right personality, mutual respect, and a willingness to listen.
- **Better value for money:** Non-registered support workers offer more flexible shift times. Participants can also negotiate wages directly. This often means the worker gets paid a better rate while costing the NDIS plan less overall, because the participant is not paying the heavy administrative overhead fees of a registered agency.

SWAN's Taskforce [submission](#) also showed that registration is not a reliable proxy for safety or quality. Participants reported that some registered providers were poor quality, unsafe, unavailable or culturally inappropriate, while some non-registered providers offered safer, more consistent and more personalised support. Registration status does not tell a participant whether a worker is the right person to provide intimate care, whether they will communicate respectfully, whether they understand trauma, whether they are safe in a small community context, bear discriminatory attitudes towards First Nations, CaLD or LGBTQIASB+ individuals, or whether the participant feels safe with them.

The Disability Royal Commission cautioned against relying solely on formal compliance processes and paperwork as indicators of safety and instead emphasised listening to people with disability about who they trust and why.

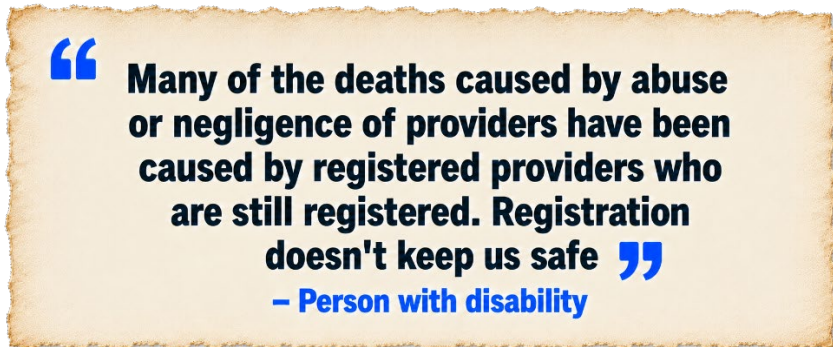


“ My experience has been that NDIS registered providers have been lower quality and higher cost and spend more time meeting the many arduous conditions and paperwork requirements to keep registration than they do actually helping people. ”

– Person with disability

The financial and practical impacts are also serious. When participants in regional areas are forced to use registered providers from outside their town, travel costs consume large parts of their budgets and reduce the amount of actual support they can receive. SWAN has documented cases where participants pay more than \$700 for a single one hour appointment, leaving little funding for direct support. A registration-heavy model will deepen this regional penalty, further entrenching inequity for people who already face distance, thin markets and limited choice. This is inconsistent with the UNCRPD's requirement that people with disability in rural and remote areas have equal access to services and supports.

SWAN is also concerned that pushing towards mandatory registration will reduce innovation and practical problem-solving. Regional participants and families often make support arrangements work by drawing on local relationships, small businesses, mainstream professionals and trusted individuals who are not formal disability providers. This is not a flaw. Often it is the only reason people can access support at all. Removing this flexibility will not automatically make the system safer. It will make it more expensive, less responsive and less humane, contrary to both the spirit of the Disability Royal Commission's recommendations and the UNCRPD's emphasis on supporting living arrangements and community connections chosen by the person.



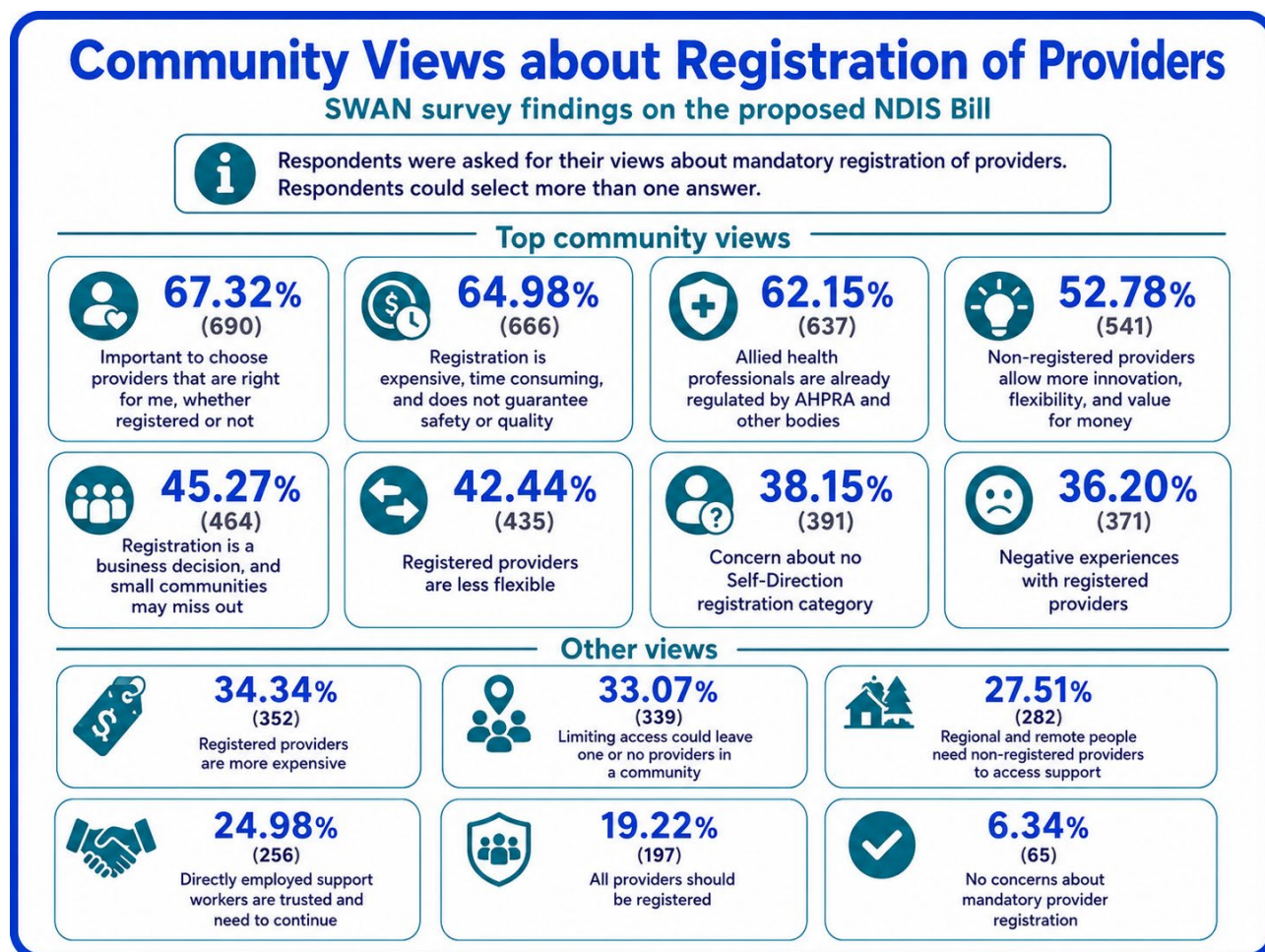
“ Many of the deaths caused by abuse or negligence of providers have been caused by registered providers who are still registered. Registration doesn't keep us safe ”

– Person with disability

We note that whilst the Independent NDIS Review recommended mandatory provider registration, the Review Panel conducted no consultation with people with disability and families in Western Australia. Only WA providers and a small number of advocacy

organisations were consulted. The recommendation of mandatory provider registration from the Independent NDIS Review fails to consider the geographic distances faced by people with disability and providers in WA, and that in a national housing crisis, people are unable to move to the metropolitan area to access services.

Of further note, we recognise the Government's intention to establish panel providers and direct commission registered providers to provide services in regional and remote communities. People with disability living in regional Australia, the majority of survey respondents and SWAN strongly oppose this. Where people with disability and families are only able to access one to two provider(s), they commonly feel unable to report violence, abuse and neglect for fear of losing access to supports needed to sustain life.



For these reasons, SWAN calls on the Senate to strongly reject any move towards mandatory provider registration or enrolment that prevents participants from choosing non-registered providers. Any regulatory model must preserve full participant choice to engage non-registered providers, particularly for personal care and in regional and remote areas, and must not allow 'safeguarding' language to be used to justify the removal of bodily autonomy, choice and control. The Government must also implement the Taskforce's recommendation of a Self-Direction registration category with minimal bureaucratic requirements.

A scheme that forces people with disability to accept intimate care from whoever a provider chooses, or leaves them with one provider and no safe way to complain, is not protecting people with disability. It is exposing them to greater harm and breaching the rights affirmed by the Disability Royal Commission and the UNCRPD.

Repercussions of Cost Cutting

SWAN is extremely worried that the Bill treats disability support as a budget problem to be cut, rather than a social and economic investment that sustains participation, employment and community life. The amendments place ‘financial sustainability’ at the centre of the scheme objects and decision-making framework, including by rewriting the reasonable and necessary object in section 3(1)(d) and inserting new scheme-sustainability principles in section 17B. In practice, these provisions risk turning the NDIS from a rights-based social insurance scheme into a rationed program defined primarily by cost containment, in tension with the Disability Royal Commission’s vision of properly resourced, person-centred support and with Australia’s obligations under the UN Convention on the Rights of Persons with Disabilities (UNCRPD).

The Bill reframes reasonable and necessary supports so that what is funded must not only be related to disability, effective and beneficial, but must also fit within a tighter sustainability framework and standardised funding limits. These changes sit alongside proposals to reduce funding for social, civic and community participation by half through rules and support determinations. Treating social, civic and community participation as an area for large, across-the-board cuts ignores the Disability Royal Commission’s clear finding that inclusion and visibility in community life are critical safeguards against violence, abuse, neglect and exploitation. It also conflicts with the UNCRPD’s requirement that States ensure people with disability can participate in the community, in public life and in cultural, recreational and leisure activities on an equal basis with others.

Spending on the NDIS must also be understood in context. The scheme supports only a fraction of Australians with disability, even though millions live with substantial impairment and support needs. Cutting support to those already in the Scheme does not change the underlying need. Instead, it shifts costs into other systems, such as health, education, housing and justice, and into unpaid care. The Disability Royal Commission documented how the absence of adequate community-based disability support leads directly to hospitalisation, institutionalisation, homelessness and contact with the criminal legal system. Cutting NDIS supports will predictably increase these harms and costs.

The Bill’s direction is economically short-sighted. The NDIS enables many people with disability to work by funding transport, personal care, support workers, therapies and communication tools that make employment possible. It also enables family members and informal carers to engage in paid work because they are not required to provide all care themselves. When supports are cut, both forms of labour-force participation are reduced. This is especially damaging for women, who still perform most unpaid care. The Disability Royal Commission highlighted the gendered impact of inadequate disability support, and the UNCRPD requires States to address the multiple discrimination experienced by women and girls with disability. Deep cuts to supports will push more women in particular out of paid work into unpaid care, with long-term consequences for income and superannuation.

The social risks are equally serious. Reducing social, civic and community participation funding increases isolation and dependence, which in turn increases the risk of violence and abuse. People with disability are safest when they are seen and heard, included in community, and connected to multiple relationships and services. When funding for community access is cut, people become more isolated, more dependent on a small number of carers or providers, and less visible to the wider community. The Disability Royal Commission repeatedly found that isolation, closed settings and over-reliance on a single

provider or family system are key risk factors for violence, abuse and neglect. Cutting participation supports moves the Scheme in exactly the wrong direction.

Families will also carry more pressure. When formal supports are reduced, families who are already exhausted are forced to take on more supervision and crisis management. The Royal Commission heard evidence from families who were pushed to breaking point and, in some cases, to relinquish care because they could no longer keep a family member safely at home without adequate support. Survey respondents expressed similar fear and distress, warning of catastrophic consequences if the supports that currently make family life survivable are withdrawn. The proposed funding cuts are inconsistent with the UNCRPD's obligations to support families and to prevent separation or institutionalisation based on disability.

Cost-cutting will also push more people with disability unnecessarily into hospitals and aged care. When preventative, capacity-building and community-based supports are removed, people's health and mental health deteriorate, crises escalate, and there is no way to maintain safety in the community. The likely consequences include more avoidable hospital admissions, more delayed discharges and more people occupying acute beds because the supports needed for safe discharge do not exist, as well as more people being funnelled into aged care or other inappropriate settings. The Disability Royal Commission strongly criticised the placement of younger people with disability in aged care. Policies that reduce NDIS supports and increase that risk are regressive and inconsistent with the UNCRPD's guarantee of the right to live in the community with choices equal to others.

Other groups will be disproportionately affected, like people living in regional, rural and remote settings. For example, a return to block funding removes choice and control, and the introduction of strict administrative requirements that fail to account for the severe lack of local services. Regional participants face almost impossible geographical barriers, including a total absence of local services, a lack of accessible transport, and specialist waitlists that can exceed four years. These impacts are magnified if the person is from, for example, a First Nations background or community – a reduction of workforce availability or return to block funding will mean that culturally appropriate supports are less likely to be available.

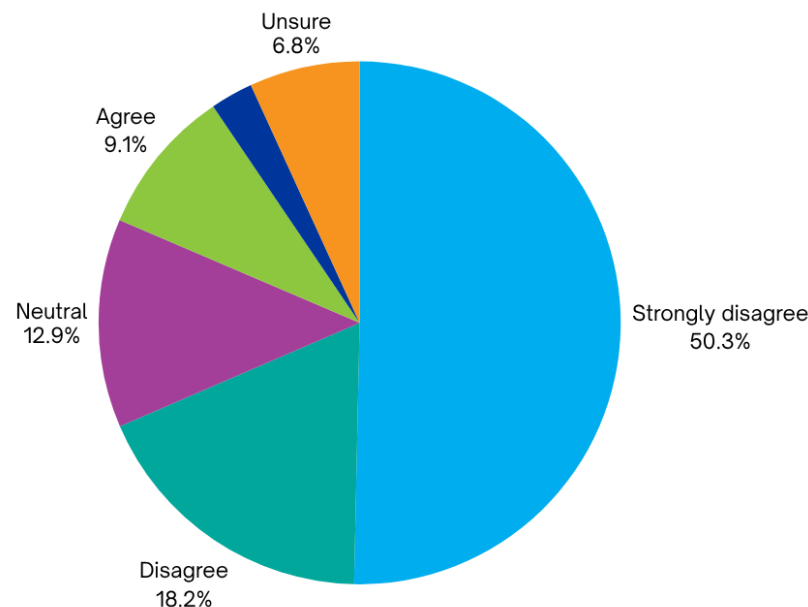
People with disability and families will also be disproportionately impacted by the requirements to exhaust all 'appropriate' medical treatments and provide extensive specialist evidence to prove our disabilities are permanent, as specialist doctors and allied health professionals are predominantly concentrated in major metropolitan centres.

The proposed legislation removes essential existing protections that grant NDIS access when treatments are geographically unavailable, and mandatory provider registration threatens to force out the few remaining independent local practitioners. Consequently, rural participants who cannot afford the immense travel costs to seek care in capital cities or interstate will be unfairly denied vital support simply because of where they live.

There are better ways to address cost pressures than cutting participant supports. The disability community, including platforms such as [Our NDIS](#), has identified alternative savings measures such as reducing excessive administrative burdens and duplicated reporting, addressing provider price distortions and overcharging, improving internal NDIA decision-making, and reducing unnecessary legal and tribunal costs. These kinds of structural reforms are much more consistent with the Disability Royal Commission's recommendations and with a UNCRPD-compliant approach than blunt reductions in

participant supports. As can be seen in the graph below, the majority of survey respondents reported that they are not in support of the Government's proposed changes. Of the 1,022 participants who answered this question, 11.74% of respondents 'agree' or 'strongly agree' with the proposed changes, 12.92% neither agreed nor disagreed, and 68.59% of respondents reported that they 'disagree' or 'strongly disagree' with the Government's proposed changes.

Level of support for Government's proposed changes to fraud, claiming and provider registration



SWAN's concern is not only that the proposed cuts are harsh. It is that they are economically and socially self-defeating. The NDIS is an investment in safety, inclusion, workforce participation and strong local communities. Rewriting the Act to place scheme sustainability ahead of rights-based principles, and using that framework to justify deep cuts to core supports, social, civic and community participation and flexible funding, will reduce employment, increase unpaid care, push people into hospitals and aged care, weaken regional services and increase the risk of violence, abuse, neglect and premature death. That is a false economy and inconsistent with the Disability Royal Commission's vision and Australia's obligations under the UNCRPD.

“ This just sounds like a way for businesses to monetise disability even more and to take away choice and control. ”
– Person with disability

To align the Bill with those obligations, SWAN urges the Senate to:

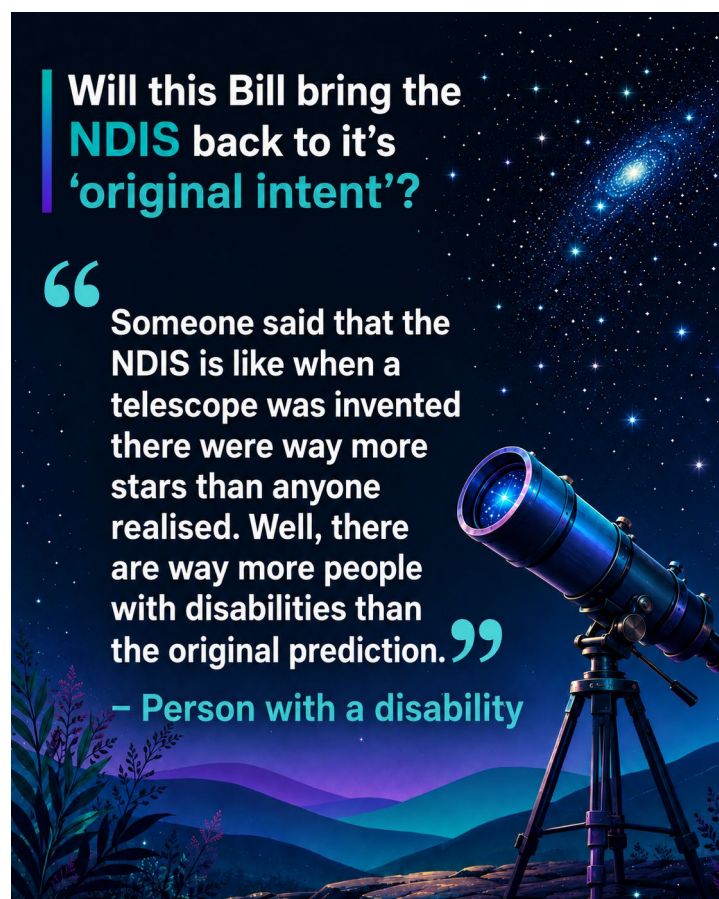
- amend the objects and principles so that financial sustainability is balanced with, not placed above, rights, inclusion and safety

- protect social, civic and community participation funding as a key safeguarding measure, not a primary savings target, and
- prioritise structural efficiency measures over cuts to individual supports, so that the NDIS remains a genuine investment in people with disability and the wider Australian community.

Where Could Alternate Savings Be Made in the NDIS?

SWAN does not accept that the only way to control NDIS costs is to cut participant supports. The Bill itself shows that Parliament can choose where to focus cost control: it amends the objects in section 3 and inserts new scheme-sustainability principles in section 17B, and then uses those principles to justify tighter access, narrower supports and new caps, rather than tackling structural waste and poor administration. That choice is inconsistent with the Disability Royal Commission's emphasis on properly resourced, person-centred support and with the UNCRPD requirement that financial measures not undermine the rights of people with disability to live independently and participate in the community.

There are multiple areas where genuine savings could be made without harming people with disability. Many of these alternatives come down to a simple principle: believe people with disability, reduce bureaucracy, and stop spending public money fighting participants instead of supporting them. The Disability Royal Commission repeatedly found that complex, adversarial and opaque systems are both harmful and expensive, and recommended that Governments simplify processes, reduce documentation burdens and invest in early, collaborative resolution of issues. The UNCRPD likewise requires States to ensure access to justice on an equal basis and to provide procedural accommodations, not build systems that exhaust people into giving up.



One of the clearest savings opportunities is to reduce the demand for expensive allied health reports to justify relatively small or low-cost supports – a saving of approximately \$1.55 billion per year. Participants are regularly required to obtain Functional Capacity Assessments and other specialist reports costing thousands of dollars in order to request supports that are plainly disability-related and comparatively inexpensive. For example, it is common for a person to be told they must obtain a costly occupational therapy driver assessment (\$2,200-\$3,100) in order to justify a modest increase in funded driving lessons (\$700-\$1400). That is not evidence-based spending. It is bureaucratic overreach that costs more than the support being sought, contradicts the Disability Royal Commission's call for proportionate evidentiary requirements, and undermines the UNCRPD's requirement that procedures be accessible and not unduly burdensome.

Another clear area for savings is the cost of legal contest and external review. Under section 100 of the NDIS Act, participants can seek internal review of reviewable decisions, and many then go on to external merits review in the Administrative Review Tribunal because plans contain errors, unjustified cuts or refusals that should never have occurred. Each matter that proceeds to external review consumes substantial time, legal resources and administrative effort for both the Agency and the participant. Money currently spent on fighting people with disability could be better spent on getting decisions right the first time, providing draft plans, and resolving disputes early and collaboratively, as recommended by the Disability Royal Commission.

A major source of avoidable cost is the Agency's failure to provide draft plans for checking before plans are finalised. When a participant receives a final plan with errors, missing supports, incorrectly coded items or unexplained reductions, the only practical option is often to seek internal review under section 100 or a change of circumstances reassessment under section 48. This creates a cycle of avoidable reviews, reassessments, correspondence and delay, all of which add cost. Providing draft plans, and building in a short, supported period for participants to check and correct errors before approval, would likely reduce the volume of reviews and disputes, improve trust and align with the Disability Royal Commission's recommendations on co-design and shared decision-making.

There are also legitimate questions about the cost and effectiveness of contractor arrangements, including Local Area Coordinators and early childhood partners. These outsourced structures add layers between participants and the NDIA, and they do not always improve the quality, consistency or timeliness of decisions. Where contractor models duplicate work, increase handovers, or create confusion about who is responsible for planning and support connection, they generate administrative cost without corresponding value. The Disability Royal Commission criticised fragmented governance and unclear accountability across disability systems, and called for streamlined, accountable structures that people with disability can navigate.

Further savings can be found in reducing duplicated administration, improving decision quality, and streamlining participant communication so that people are not repeatedly required to re-prove permanent disability or resubmit material the Agency already holds. At present, the system often creates churn by rejecting existing evidence, demanding fresh reports, and forcing people through multiple review stages because the original decision was wrong or incomplete. That kind of churn does not protect scheme integrity. It wastes money and conflicts with the UNCRPD's requirement that people with disability have effective and practical access to benefits and services without unnecessary barriers.

The disability community has already identified many of these alternative cost drivers and savings opportunities. Collective work such as the Our NDIS campaign highlights structural inefficiencies and spending pressures that could be addressed before Parliament contemplates cutting participant supports, including administrative waste, duplicated assessments, unnecessary compliance burdens and policy settings that drive up legal and transactional costs rather than improve outcomes. These proposals are consistent with the Disability Royal Commission's approach: fix systems and structures before limiting people's rights and supports.

SWAN's position is that the NDIS can and should be made more efficient, but not by making life harder or more dangerous for people with disability. Real savings come from getting decisions right early, reducing bureaucracy, trusting participant evidence, limiting adversarial legal processes, improving policy design and eliminating systems that generate unnecessary reassessments and disputes. The Senate should insist that these options are exhausted, and that the objects and principles in sections 3, 4, 17A and 17B are interpreted in line with the Disability Royal Commission and the UNCRPD, before Parliament considers any further cuts to the supports people need to live safely and participate in their communities.

Recommendations

Core recommendation

1. Withdraw the Bill and restart with proper co-design

- The Securing the NDIS for Future Generations Bill 2026 should be withdrawn.
- Any future amendments to the NDIS Act 2013 should be developed through genuine co-design with people with disability, families and our representative organisations, including release of a full exposure draft and a minimum three-month consultation period before legislation is introduced.

Access, eligibility and continuity of supports

2. Reject key access-tightening provisions

- Reject or substantially amend proposed section 9B (functional capacity), and any Rules that enable rigid, standardised functional assessment tools as gatekeepers to the Scheme.
- Establish a two-pathway method for applying for NDIS Access:
 - a) List A diagnosis basis, or
 - b) Free Functional Capacity Assessment
- Retain and improve eligibility lists (such as List A) for clearly qualifying conditions, and add missing cohorts such as Down syndrome and intellectual disability (IQ ≤ 70), while providing no-cost functional capacity assessment pathways for others.
- Reject the 'all appropriate treatment' requirements and stricter permanence tests in proposed amendments to sections 24 and 25, including proposed subsections 24(5)(a) and 25(1B)(a).
- Reject proposed section 25B, which would again allow the NDIA to refuse access on the grounds that another system 'should' provide support.
- Reject proposed section 25A(2) to the extent it entrenches treatment exhaustion as a barrier to access.

3. Protect 'whole-of-person' assessment and complex and/or fluctuating disability

- Preserve the existing ‘whole-of-person’ approach to access and supports, including the substance of section 31.
- Ensure the Act recognises cumulative, fluctuating and intersecting disabilities, and explicitly protects access for autistic people, people with psychosocial disability, people with masked or episodic disability, and those whose needs are not captured by standard tools.

4. Prevent loss of access through process and ‘uncontactability’

- Remove proposed section 40A (plan suspension for ‘not contactable’) and proposed subsection 30(1A) (revocation of access following suspension), unless strong, enforceable safeguards are inserted.
- If any ‘uncontactable’ provisions remain, require: accessible, multi-channel communication attempts; assessment of disability-related barriers, hospitalisation, homelessness or crisis; and a positive obligation on NDIA to use the person’s preferred and safe communication methods.

Plans, reviews, reassessments and unspent funds

5. Reject automatic plan renewal without real engagement or review rights

- Reject proposed section 50A unless it is amended to require genuine planning conversations, proper review of needs, and carry-over of one-off supports delayed by waitlists or market failure.
- Ensure that decisions about plan renewals and any associated changes are expressly listed as reviewable decisions under sections 99 and 100.

6. Restore fair, responsive reassessment arrangements

- Reject proposed section 48A in its current form. If any tightening of unscheduled reassessments is pursued, it must:
 - a) Cover crisis and time-limited situations where safety, housing, family stability or health are at risk, and
 - b) Allow for early intervention rather than waiting for permanent deterioration.
- Maintain the ability for trusted others (e.g. support coordinators, advocates) to request plan changes with the participant’s consent
- Require NDIA to enable participants to have two plan nominees to avoid the issues arising where the sole plan nominee is incapacitated or has died.

7. Keep the Participant Service Guarantee meaningful

- Retain the 21-day time limit for deciding reassessment requests and access decisions, or require strong, enforceable consequences (including deemed favourable decisions) if the NDIA exceeds extended timeframes.
- Do not remove existing ‘deemed decision’ safeguards without replacing them with equivalent or stronger protections.
- Require NDIA to measure time passage for Access Request decisions from the when the participant initially applies for Access, not after the PITS finalises the unnecessary Community Connections Plan and submits ID documents.

8. Stop misuse of unspent funds as a proxy for low need

- Prohibit the use of under-utilisation alone as evidence of reduced need.
- Require carry-over of unspent funds where non-use is caused by extensive waitlists, workforce shortages, market failure, hospitalisation or NDIA errors (including for ‘one-off’ supports).

- Require NDIA to record and consider the reasons for under-utilisation before making any funding reductions.

Ministerial powers, caps and ‘support determinations’

9. Remove section 34A support determinations

- Remove the Minister’s power to make support determinations under section 34A that reduce funding component amounts scheme-wide.
- At minimum, if any such power remains, require:
 - a) Strict statutory criteria consistent with the UNCRPD and Disability Royal Commission recommendations;
 - b) Parliamentary approval and sunseting;
 - c) Explicit exclusion of supports essential for safety, wellbeing, communication and participation; and
 - d) Individual review rights for affected participants.

10. Prevent non-reviewable caps and hidden budget algorithms

- Remove new powers to set maximum caps, intensities and worker-to-participant ratios in section 33 and subsections 33(2EA)–(2EB).
- Require that any pricing rules, intensity limits and ratios are transparent, subject to disability community consultation, and do not override individualised assessment of need.
- Ensure that the new ‘New Framework Plan’ budget methods in section 32K are publicly documented and not used as rigid ceilings, and that the underlying methods and any associated instruments are subject to merits review where they determine a person’s funding.

Automation, compliance and debts

11. Fix review rights and procedural fairness before expanding automation

- Make the original decision that a debt exists a reviewable decision under section 99, with clear internal review rights under section 100.
- Prohibit fully automated debt-raising and adverse compliance decisions; require that any debt, suspension, or serious adverse action involving a participant be made or confirmed by a human delegate.
- Enshrine a statutory ‘Right to a Human’, allowing participants to immediately escalate any automated compliance flag or adverse automated outcome to a human decision-maker without having to initiate a full, formal review.

12. Strengthen transparency and safety of automated systems

- Mandate an accessible ‘Right to an Explanation’, requiring NDIA to give participants clear, accessible explanations of how automated systems reached their conclusions.
- Require mandatory, independent algorithmic auditing of NDIA automated systems, including testing for bias (ableism, racism, sexism and others), with public reporting of audit findings and remedial actions.
- Limit use of sections 59B–59E to administrative actions that are genuinely suitable for automation; require consultation with disability representative organisations before listing additional provisions under section 59C(2).

13. Limit coercive compliance and information-gathering powers

- Amend Schedule 2 to:

- a) Strictly limit information-gathering, data-matching and surveillance powers to what is necessary and proportionate;
 - b) Insert strong, disability-specific safeguards, including access to advocacy, interpreters, communication supports and supported decision-making for any person facing compliance action; and
 - c) Exclude participants, prospective participants and nominees from civil penalty exposure where non-compliance is linked to disability or NDIA failures.
- Ensure that powers in sections 73ZSA, 73ZSB, 73ZSL and 73ZSM are accompanied by clear statutory limits, not left primarily to legislative instruments.

14. Reform record-keeping and debt provisions to avoid ‘Robodebt-style’ harm

- Re-draft section 45B so that:
 - Record-keeping obligations for participants and nominees are realistic and disability-informed;
 - Participants are not automatically liable for the full amount of a claim solely due to missing records; and
 - There are clear, statutory exemptions and defences for disability, disaster, poverty, NDIA failure to explain obligations, and circumstances beyond a person’s control.
- Require NDIA to proactively and accessibly inform all participants and nominees of record-keeping duties, timeframes, and consequences, before any penalty or debt can arise.
- Ensure that any civil penalties for non-compliance with information notices (e.g. under sections 53 and 189) cannot be imposed on participants or nominees without consideration of disability impacts and available supports.

‘Reasonable and necessary’, sustainability and object of the Scheme

15. Re-balance ‘reasonable and necessary’ away from pure cost-containment

- Retain and strengthen the original purpose language of the Act, including the substance of section 31, so that financial sustainability is one consideration, not the dominant driver.
- Amend new section 17B and the section 34 amendments so that:
 - a) They explicitly recognise rights, inclusion, safety, choice and control as co-equal objectives;
 - b) They preserve the ‘whole-of-person’ lens and recognise needs arising from multiple impairments; and
 - c) They prevent the exclusion of support needs simply because they are not directly traceable to a single access-qualifying impairment.

16. Align the Bill with the Disability Royal Commission and UNCRPD

- Audit all proposed amendments against key DRC recommendations and UNCRPD obligations (including Articles 12, 14, 19, 24, 25, 26 and 28).
- Remove or redraft provisions that promote gatekeeping, rigid standardisation, institutionalisation, or cost-cutting at the expense of safety and equal participation.

Choice, control and provider registration

17. Protect self-management, plan management and local supports

- Reject any moves toward mandatory or de-facto mandatory provider registration, direct commissioning and panel providers for routine supports that would undermine self-management and plan management.
- Ensure that participants retain the right to choose non-registered providers, especially for core supports and personal care, and that risk management occurs through proportionate safeguards rather than blanket bans.
- Implement the Self-Direction category recommended by the NDIS Provider and Worker Registration Taskforce, with minimal bureaucratic requirements and no cost to participants and nominees.

Fiscal sustainability and alternative savings

18. Pursue rights-respecting, evidence-based savings instead of cuts to supports

- Focus on system efficiency and quality improvements, including:
 - a) Reducing duplication and unnecessary high-cost reports;
 - b) Improving decision quality and providing draft plans for correction;
 - c) Reducing heavy reliance on external legal contest and litigation;
 - d) Fixing inefficiencies in outsourced partner (LAC/ECA/PITC) models; and
 - e) Investing in foundational supports and mainstream interfaces to reduce downstream crisis costs.
- Require Government to publish transparent modelling showing that any cost-containment measure will not increase costs in health, housing, aged care, education, mental health, justice and emergency systems.



Contact

CEO: **Nick Avery**

Email: info@swanautism.org.au

Web: www.swanautism.org.au