

Submission: New Framework Planning and NDIS Supports

National Legal Aid | **14 October 2026**



Prepared for: Department of Health Disability and Ageing

Acknowledgement of Country

National Legal Aid acknowledges Traditional Owners of Country throughout Australia and recognises the continuing connection to lands, waters and communities. We pay our respects to Aboriginal and Torres Strait Islander cultures, and to Elders both past and present.

Contents

About National Legal Aid	1
Executive summary	2
New Framework Planning	2
NDIS Supports	3
Summary of Recommendations	4
Introduction	6
1. New Framework Planning	6
1.1 Support needs assessment rules	6
1.1.1 Accessibility of the assessment process	6
1.1.2 Assessment tool	8
1.1.3 Personal and environmental circumstances questionnaire	8
1.1.4 Cost of reports and targeted assessments	9
1.1.5 Treatment of evidence gathered during the SNA	10
1.1.6 Training and qualifications for support needs assessors	11
1.1.7 Procedural matters	11
1.1.8 Draft template support needs assessment report	13
1.1.9 Replacement assessments	14
1.2 Budget method rules	15
1.2.1 Information to understand how budgets are calculated	15
1.2.2 Participant plan template	16
1.3 Plan variation and reassessment rules	17
1.3.1 Procedural fairness	17
1.3.2 CEO initiated variations and reassessments	17
1.3.3 Use and management of funding	18
1.4 Further considerations	19
1.4.1 Who can request or initiate a variation	19
1.4.2 Short-term variations pending reassessment or review	20
1.4.3 Significant change and crisis or emergency funding	21
1.4.4 Minor changes	21
1.4.5 Quotes and related supports	22
1.4.6 Support needs assessments	22
2. NDIS Supports	22

2.1 What is not a NDIS Support	23
2.2 Replacement supports	24
2.3 Proposed Support Categories	26
2.3.1 Proposed item 1 – Assistance animals	28
2.3.2 Proposed items 2 and 3 – Assistive technology	29
2.3.3 Proposed item 2 – Assistive technology - assets	29
2.3.4 Proposed item 3 – Assistive technology - other	30
2.3.5 Proposed item 4 – Behaviour support	31
2.3.6 Proposed item 5 – Disability-related health supports	31
2.3.7 Proposed item 7 – Early intervention supports for early childhood	32
2.3.8 Proposed item 10 – In-home and community supports	32
2.3.9 Proposed item 13 – Medium term accommodation	34
2.3.10 Proposed item 15 – Private vehicle transport	34
2.3.11 Proposed item 20 – Therapy support	35

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<http://www.nationallegalaid.org.au>

About National Legal Aid

Who are we?

National Legal Aid (NLA) represents the directors of the eight state and territory legal aid commissions (Legal Aids) in Australia. Legal Aids are independent, statutory bodies established under respective state or territory legislation. They are funded by Commonwealth and respective state or territory governments to provide legal assistance services to the public, with a particular focus on the needs of people who are economically and/or socially disadvantaged.

What do we do?

NLA brings together the experience of the eight Australian state and territory Legal Aids. Legal Aids work across areas of criminal, civil and family law to provide legal representation, legal advice, community legal education and information, and integrated legal and social services, as well as policy and law reform.

Legal Aids are the largest providers of legal services to people with disability across Australia, including grants of aid for ongoing legal representation, duty lawyer services at courts and tribunals, legal advice, family dispute resolution conferences, community legal education, and information and referrals. Each year, we provide 1.7 million instances of legal assistance. 25% of our clients receiving legal representation have a disability. The Australian Government funds Legal Aids in each state and territory to provide specialist legal advice and representation for participants appealing NDIS decisions, working alongside disability advocates in the NDIS Appeals Program.

Why do we do it?

Our shared vision is that all people experiencing disadvantage have access to legal assistance and fair justice outcomes that contribute to safe, thriving families and communities. Our clients include people most in need of legal assistance including First Nations peoples, victim-survivors of domestic and sexual violence, and people with disabilities.

Executive summary

National Legal Aid (NLA) welcomes the opportunity to contribute to the Department of Health Disability and Ageing (DHDA, the Department) consultation on New Framework Planning Rules and National Disability Insurance Scheme (NDIS) Supports Transitional Rules.¹

NLA's submission builds on our earlier submissions and recommendations to the Department on NDIS New Framework Planning in March 2026² and to the Senate Community Affairs Legislation Committee³ on the amendments to the NDIS legislation, in June 2026.

New Framework Planning

NLA is concerned that key aspects of the proposed framework remain unclear, including how support needs assessments (SNA) will accommodate participants' communication, cultural, disability and trauma-related needs; how evidence will be weighed; how budgets will be calculated; and what qualifications assessors will require.

Participants should be able to provide relevant evidence, review and correct draft assessment reports, understand the reasons for assessment and funding decisions, and obtain replacement assessments where material errors, procedural failures or significant changes arise. The National Disability Insurance Agency (NDIA) should also meet the cost of reports required to access targeted assessments so that participants are not disadvantaged by their financial circumstances.

The plan variation and reassessment rules should embed procedural fairness, participant choice and control, and a least restrictive approach. They should enable the NDIA to respond proactively to risk, crisis and changing circumstances, and preserve continuity of essential supports while reassessments, internal reviews or Administrative

¹ Department of Health Disability and Ageing [New Framework Planning and NDIS Supports Consultation](#). (Website, 19 August 2026); Department of Health Disability and Ageing [New Framework Planning Rules - Consultation paper August 2026](#) (Consultation paper, 19 August 2026); Department of Health Disability and Ageing [NDIS Supports Transitional Rules - Consultation paper August 2026](#) (Consultation paper, 19 August 2026).

² National Legal Aid [NDIS Rules: New framework planning](#) (Submission to the Department of Health Disability and Ageing, 6 March 2026). This submission responded to the consultation on the four previously drafted rules; including: Notice of Impairments, transition to the new framework plan, new framework plan spending, and stated supports.

³ National Legal Aid [NDIS Amendment \(Securing the NDIS for Future Generations\) Bill 2026](#) (Submission to the Senate Community Affairs Legislation Committee, 4 June 2026).

Review Tribunal proceedings are underway. Draft rules should be published for further consultation before the framework is finalised.

NDIS Supports

Clarity is critical for participants seeking to understand what expenses they can incur under their plan. This is the case for accessing supports under both old and new framework plans. Every effort should be made to provide certainty around expenditure so participants have confidence around their decision making, can access supports efficiently and ensure they do not incur debts. This is critical for both the sustainability of the NDIS, and the wellbeing of participants.

NLA broadly supports measures that simplify and consolidate NDIS support categories, but we are concerned that some proposed changes may unintentionally narrow existing supports or create uncertainty for participants. The rules should preserve necessary disability-related supports, and key focus for our recommendations is to address areas where there may be confusion or a lack of clarity.

Recommendations

NLA makes 25 specific recommendations for development of and further refinement of rules for New Framework Planning and NDIS Supports processes.

Further consultation on the draft rules and supporting detail will be essential to ensure the reforms do not unintentionally undermine participant choice, control and safety.

NLA welcomes the opportunity to continue working with the Department and the disability community to ensure the reforms deliver fair outcomes for NDIS participants.

Summary of Recommendations

Recommendations: Consultation

1. That DHDA publish draft rules for further consultation with the disability community, state and territory governments, and other stakeholders before the rules are finalised.

Recommendations: Support needs assessment rules

2. Provide further explanation of how the SNA process will be accessible.
3. Unless the proposed assessment tool can be validated for use with diverse participants, continue to assess support needs as usual.
4. The SNA process should enable and support participants to provide information in a way that is not burdensome.
5. The cost of preliminary reports be paid for by the NDIA.
6. Assessors be required to explain how information has been considered in assessments of NDIS Supports.
7. Set rules for required qualifications for NDIS assessors.
8. Provide clear timeframes for the SNA process.
9. Clarify interaction of the SNA with impairment notices.
10. Provide participants with notice of the content of a draft assessment report, with opportunity to correct errors or supply further information.
11. Improve the template SNA report with an accessible summary, risks of unmet needs, and explanation of why evidence has not been accepted or what additional evidence is required.
12. That the SNA Rules provide for circumstances where a participant be entitled to request a replacement assessment.

Recommendations: Budget method rules

13. Provide further information about the criteria and methodology for determining participants' budgets.
14. Include detail in participant plans about the budget methodology and list the supports that participant can access.

Recommendations: Plan variation and reassessment rules

15. That the rules promote participant choice and control and are consistent with the principles and objectives set out in sections 4 and 5 of the NDIS Act, adopt a least

restrictive approach, and require decision makers to give effect to a participant's stated preferences where reasonably practicable.

16. That key concepts, eligibility requirements and decision-making considerations within the rules provide sufficient clarity and flexibility to minimise uncertainty, support consistent decision making, and respond to the diverse circumstances of NDIS participants.
17. Ensure procedural fairness such that participants are notified and have opportunity to respond in circumstances where the CEO has explicit ability to make an adverse or different decision than they are required to under the Act.
18. Permit participants to authorise a trusted person or professional to lodge variation and reassessment requests on their behalf.
19. For CEO-initiated variations and reassessments, include rules that require the CEO to act proactively in the interests of participants.
20. The new rules should not adopt the current rules drafting regarding crisis and emergency funding which requires a "significant change".
21. That the rules for minor variations should be clarified and allow greater flexibility.
22. That the rules ensure variations are available in circumstances where updated information is provided.

Recommendations: NDIS Supports

23. Clarify the proposed exclusions of NDIS supports, including facilitating standard items where they are required to address the functional impact of disability; not excluding noise-cancelling headphones; and confirm that non-standard fencing and gates can be a NDIS support.
24. Address the transitional impacts of the removal of replacement supports; and retain inclusion of tablets, smart phones, smart watches and apps for accessibility and communication as stated supports.
25. Revise the proposed support categories and items to ensure supports are adequately covered; in the categories for assistance animals, assistive technology, behaviour support, disability-related health supports, early intervention supports for early child, and in-home and community supports, medium-term accommodation, private vehicle transport, and therapy support.

Introduction

NLA welcomes the opportunity to provide feedback and recommendations to the Department based on the information currently available on New Framework Planning and NDIS Supports. Our feedback is limited in many places however without seeing exposure drafts of rules. We look forward to the drafts being provided for further consultation and dialogue.

Recommendation 1. Publish draft rules for further consultation

NLA recommends that DHDA publish draft rules for further consultation with the disability community, state and territory governments, and other stakeholders before the rules are finalised; as anticipated by the *Supplementary Explanatory Memorandum, National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) Bill 2024*.⁴

1. New Framework Planning

1.1 Support needs assessment rules

Section 32K of the Act provides that a participant's reasonable and necessary budget must be worked out by applying the information contained in the needs assessment report for the plan. This makes the support needs assessment (SNA) process incredibly important, and it is vital that it results in a report that is accurate, detailed and reflective of the participant's actual disability support needs.

NLA considers that several aspects of the SNA process require further explanation.

1.1.1 Accessibility of the assessment process

The consultation paper describes the SNA as a "guided conversation between a NDIS participant and a trained, accredited NDIA assessor". However, there is very little information provided about the how the NDIA will ensure that this process is accessible to all participants. The current proposal for a "guided conversation" comprising the core needs assessment, personal and environmental circumstances questionnaire (PECQ),

⁴ Commonwealth, [Supplementary Explanatory Memorandum, National Disability Insurance Scheme Amendment \(Getting the NDIS Back on Track No. 1\) Bill 2024](#) (Cth), p.14.

and any targeted assessments appears to place considerable emphasis on self-reporting during the interview.

As NLA has flagged previously,⁵ this raises concerns for participants who cannot easily describe their functional limitations, face communication barriers, speak languages other than English, or require support to articulate disability-related needs. A process heavily dependent on self-reporting risks under-identifying support needs and producing insufficient budgets.

Legal Aid experience also demonstrates that additional safeguards will be required for participants who are in custody, experiencing homelessness or unstable accommodation, living in rural or remote areas, or unable to engage effectively without funded or informal support. The assessment process must accommodate participants who require interpreters, augmentative and alternative communication, supported decision-making or other reasonable adjustments, and must not penalise participants whose disability, trauma or circumstances limit their ability to participate in a single assessment interview.

Recommendation 2: Provide further explanation of how the SNA process will be accessible

NLA recommends that more explanation be provided about how the SNA process will be made accessible to all participants, including information about:

- the format of the assessment (face-to-face, telephone, or on the papers)
- the location (NDIA office, participant's home, or another suitable venue)
- the number and duration of sessions
- the pacing and the structure – ensuring participants can take breaks where needed
- the availability of interpreters and any written material other languages
- what reasonable adjustments for a participant's disability needs may be required
- how the assessor will consider whether third parties such as family, carers or treating professionals should be present (as opposed to such people being present at the request of the participant only);
- how the assessor will ensure a trauma-informed approach will be taken, including adjusting the pace of questioning, avoiding repeated recounting of distressing experiences, and ensuring participants feel safe and supported throughout the process.⁶

⁵ National Legal Aid, NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Submission to the Department of Health Disability and Ageing, 4 June 2026) 21.

⁶ National Legal Aid NDIS Rules: New framework planning (Submission, 6 March 2026) 21-22.

1.1.2 Assessment tool

The consultation paper states that one of the key components of the SNA process will be a “core needs assessment” which is based on a modified version of the Instrument for the Classification and Assessment of Support Needs (I-CAN) version 6. We understand the I-CAN assessment tool is designed and validated for use for people with disabilities aged 16 years and older.⁷

It is not clear whether the proposed assessment tool has been or can be validated for use for:

- people with disabilities aged under 16;
- people who speak languages other than English;
- people from culturally diverse backgrounds; or
- people with fluctuating, progressive or episodic disabilities.

Critically, it is also not clear whether this proposed assessment tool has been culturally validated for use for First Nations participants by Aboriginal and Torres Strait Islander led research and community.

Recommendation 3: Unless the proposed assessment tool can be validated for use with diverse participants, continue to assess support needs as usual

NLA is concerned that use of the proposed assessment tool to determine the core support needs of participants for whom the tool has not been validated, would result in support needs being under-identified or mis-identified and produce inappropriate budgets.

Unless and until such validation can occur, NLA recommends that this proposed assessment tool not be used to determine the core support needs of participants for whom the tool has not been validated. NLA recommends that for these participants, core support needs should continue to be assessed based on:

- reports and information from the person’s treating medical and allied health professionals; and
- information from the person themselves and their informal supports.

1.1.3 Personal and environmental circumstances questionnaire

The consultation paper states that the second part of the SNA will be the personal and environmental circumstances questionnaire (PECQ). This questionnaire will be used to:

⁷ Centre for Disability Studies, [About the I-CAN](#), (Website, n.d)

- Collect additional information about a participant that may not be recorded in the core needs assessment; and
- identify individual circumstances that may impact a participant's budget.

NLA supports the concept of the PECQ to the extent that it enables a participant's individual circumstances and needs to be captured and considered. However, the extent to which the PECQ process will enable individual circumstances and information to be provided by participants is not clear.

For example, if the PECQ merely comprises a pre-determined set of questions calling for a "checkbox" or short answer style response, NLA considers that this will not adequately enable assessors to obtain information about a participant's individual circumstances and needs. People with disability cannot be put into boxes and the SNA should be flexible enough to enable participants to provide their own information and tell their own story.

Recommendation 4: The SNA process should enable and support participants to provide information in a way that is not burdensome

As NLA has previously recommended,⁸ the SNA process should enable participants to provide their own information such as medical reports, allied health assessments, and statements from carers or family members. Participants must also be supported to provide information in a way that is accessible and not overly burdensome, and they should also be assisted to understand what types of additional information may be helpful. This approach is consistent with the recommendations of the NDIS Review⁹.

1.1.4 Cost of reports and targeted assessments

The consultation paper states that "targeted assessments" will be used to determine if disability related health supports, assistive technology, home modifications, environmental supports or behavioural supports are required. It is proposed that targeted assessments will only be conducted if the participant has first provided the assessor with "relevant reports from a medical or allied health professional". It is also proposed that the rules set out minimum information that will be required to be included in those reports.

⁸ National Legal Aid [NDIS Rules: New framework planning](#) (Submission to the Department of Health Disability and Ageing, 6 March 2026) 22.

⁹ Commonwealth of Australia, Department of the Prime Minister and Cabinet, [Working together to deliver the NDIS - Independent Review into the National Disability Insurance Scheme: Final Report](#) (Report. October 2023)

Recommendation 5: The cost of preliminary reports be paid for by the NDIA

NLA recommends that the cost of any preliminary reports that participants must produce as a threshold requirement before a targeted assessment will be conducted, be paid for by the NDIA.

Otherwise, participants risks being excluded from accessing vital disability related health supports, assistive technology, home modifications, environmental supports or behavioural supports based solely on their financial position.

1.1.5 Treatment of evidence gathered during the SNA

The consultation paper states that the final part of the SNA will be the “assessed categories of NDIS supports”. NLA understands that this component of the process is how the information gathered from the core needs assessment, PECQ and targeted assessments is translated into NDIS supports the participant is assessed as needing.

No information has been provided about how this “translation” will occur and the extent to which the various pieces of information gathered during the process will be weighed and considered. For example, it is not clear how the assessor would deal with conflicting information obtained through the core needs assessment and the PECQ.

Care is required where assessment scores conflict with clinical reports, functional capacity assessments, behaviour support reports, evidence from treating practitioners, or information from family members, carers and support providers. For some participants, limited insight, communication difficulties, fluctuating functioning or trauma-related presentation may mean that a single assessment does not provide an accurate picture of their day-to-day functioning. The rules should require assessors to identify and resolve these discrepancies, explain why particular evidence has been preferred, and allow participants to provide further evidence where the reliability or validity of an assessment finding is disputed.

Recommendation 6: Assessors be required to explain how information has been considered in assessments of NDIS Supports

NLA recommends that there be a clear process for how assessors are to weigh and consider the information gathered during the SNA when assessing the NDIS Supports for a participant. NLA recommends that assessors be required to clearly explain:

- the information that they did and didn’t take into account;
- the weight that was placed on each piece of information; and
- how any inconsistencies were resolved.

Participants should also be able to provide further evidence and seek correction where assessment findings or scores are inconsistent with reliable evidence of their day-to-day functioning. This would promote consistency, transparency and fairness in decision-making.

1.1.6 Training and qualifications for support needs assessors

The consultation paper states that the SNA will be carried out by a “trained, accredited” NDIA assessor. No information has been provided about what training and what accreditation will be required, for someone to become a NDIA assessor.

NLA reiterates our previous advice,¹⁰ that the continued lack of clarity regarding assessor qualifications is a significant concern.

Recommendation 7: Set rules for required qualifications for NDIS assessors

NLA continues to recommend that at a minimum, for complex cases the rules should require that the assessor be a trained allied health practitioner, social worker, or similar professional with disability expertise.¹¹ This is consistent with the NDIS Review, which stated that *“the assessment should be completed by a skilled and qualified Needs Assessor who is a trained allied health practitioner or social worker, or similar, with disability expertise... In complex cases, a multi-disciplinary team could be involved.”*¹² Ideally, the NDIS Review recommendation should apply to all participants.

Further information is needed to ensure that assessors will have the skills, training and qualifications required to conduct fair and accurate assessments.

1.1.7 Procedural matters

Recommendation 8: Provide clear timeframes for the SNA process

NLA recommends that the rules provide clear timeframes, including for when an SNA will be offered once a person becomes a participant, when it will commence, and when the report will be provided following the assessment. This will help ensure participants do not face undue delay in the assessment of their support needs.

Further, based on the information provided in the consultation paper, it currently appears as though the only opportunity for feedback that participants will have, is to

¹⁰ National Legal Aid, NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Submission to the Senate Community Affairs Legislation Committee, 4 June 2026) 23.

¹¹ National Legal Aid, NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Submission to the Senate Community Affairs Legislation Committee, 4 June 2026) 23-24.

¹² Commonwealth of Australia, Department of the Prime Minister and Cabinet, Working together to deliver the NDIS - Independent Review into the National Disability Insurance Scheme: Final Report, October 2023, page 88.

give on the spot feedback at the conclusion of the guided SNA conversation. NLA understands that the process will be for the assessor to go back over the information gathered and ask the participant to confirm it is correct. A report will then be produced without any further opportunity for input or feedback from the participant.

This is concerning given the correlation between the contents of the report and the participant's support budget, and the limited scope for external review. If there are errors in the report, the participant would then have to go through a full replacement assessment process.

Recommendation 9: Clarify interaction of the SNA with impairment notices

NLA recommends clarifying the interaction between impairment notices and support needs assessments, including the process, evidence requirements and timeframes for seeking variation of an impairment notice and the consequences of a variation request for an assessment already underway.

The rules should clearly explain how the support needs assessment will interact with a participant's impairment notice, including how assessors will determine whether a support need arises directly from a recognised impairment. There should be an accessible process for seeking variation of an impairment notice, clear evidentiary requirements and decision-making timeframes, and guidance on whether an assessment will proceed while a variation request is outstanding. The framework should also provide a mechanism to amend or replace an assessment where an additional impairment is subsequently recognised.

Recommendation 10: Provide participants with notice of the content of a draft assessment report, with opportunity to correct or supply further information

NLA reiterates its previous recommendation that the SNA Rules make provision for participants being put on notice regarding the contents of a draft needs assessment report and allow the opportunity to correct factual errors and provide further information before the report is finalised and their budget is created.¹³

As previously noted,¹⁴ this safeguard would significantly reduce the risk of error and minimise the administrative burden to the NDIA with regards to support needs reassessments and would be consistent with the approach envisaged by the NDIS Review, which states: "*A comprehensive assessment of need is undertaken by a skilled*

¹³ National Legal Aid, [NDIS Rules: New framework planning](#) (Submission to the Department of Health Disability and Ageing, 6 March 2026) 25.

¹⁴ National Legal Aid, NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026 (Submission to the Senate Community Affairs Legislation Committee, 4 June 2026) 25.

assessor. This will include a discussion of the risks in a participant's life and what safeguards could be put in place in response. Participants will have as long as they need to ensure they are understood and will be able to view the assessment and add missing information before the budget is set.... Skilled Assessors will use self-reporting and strength-based interviews to assess needs.”¹⁵

1.1.8 Draft template support needs assessment report

NLA notes that the draft template support needs assessment report is very lengthy (at 32 pages) and makes use of acronyms and internal technical language to describe the participant's circumstances and support needs, such as:

- DRHS to described Disability-Related Health Supports;
- IHCS to describe in-home community supports, which NLA understands to mean assistance from a support worker or nurse in the home;
- Use of “levels” to describe extent of support needed with no explanation as to what each “level” means in terms of real-life support needs.

Recommendation 11: Improve the template SNA report with an accessible summary, risks of unmet needs, and explanation of why evidence has not been accepted or what additional evidence is required

NLA recommends that the report include an accessible and readable summary at the start of the document to assist participants to understand what information was considered, what factual findings were made, what the recommended supports are, and the reasons for those conclusions.

The report should identify any unmet disability-related needs and material risks if those needs are not funded. This could include risks to the participant's housing, health, safety, family relationships, community participation or ability to implement their plan. Recording these risks is necessary to ensure they are considered in the assessment, budget-setting and planning processes rather than becoming visible only after the participant enters crisis.

Further, to the extent a support need is expressed in terms of a set “level” or benchmark, the report should clearly explain what this means for the participant in terms of real-life support needs.

¹⁵ Commonwealth of Australia, Department of the Prime Minister and Cabinet, Working together to deliver the NDIS - Independent Review into the National Disability Insurance Scheme: Final Report, October 2023, 90.

Frequently the draft report states whether evidence has met the NDIA's requirements or not, then goes on to make a finding as to whether the NDIA thinks the participant needs funding in the relevant area.

NLA recommends that participants be provided with transparent and detailed information about why evidence has not been accepted and what additional evidence is required. As outlined in Recommendation 5 above, NLA recommends that assessors be required to clearly explain:

- the information that they did and didn't take into account;
- the weight that was placed on each piece of information; and
- how any inconsistencies were resolved.

1.1.9 Replacement assessments

Recommendation 12: That the SNA Rules provide for circumstances where a participant be entitled to request a replacement assessment

NLA recommends that the SNA Rules provide that a participant be entitled to request a replacement assessment in the following circumstances:

- Where there is a material error in a participant's SNA or needs assessment report;
- Where there is new information which is relevant to the participant's disability support needs arising from impairments in relation to which the participant meets the disability requirements or the early intervention requirements that has not been considered in a participant's needs assessment report;
- Where there has been a failure to follow the SNA processes as prescribed by relevant legislation, rules or operational guidelines (such as a failure to provide reasonable adjustments for disability)
- Where the assessment was not accessible by the participant and where the assessment was not trauma or disability informed, or where the participant could not participate meaningfully because they were in custody, experiencing homelessness, in hospital, in crisis, unwell or without necessary communication or decision-making support;
- Where the needs assessment report contains ambiguous, borderline, or internally inconsistent findings
- Where the needs assessment report appears inconsistent with objective evidence without sufficient explanation
- Where the assessor failed to consider relevant information or considered irrelevant information, or a treating clinician, support person or other key source

of information was not consulted despite being necessary for accurate assessment

- where a participant's circumstances have significantly changed since the original assessment was completed.
- Where an unreasonable/inconsistent report results from an assessment, and the report does not reasonably reflect the participant's support needs,
- Where there is significant discrepancy between assessment and other reliable evidence provided by the participant.
- Where the assessor did not have appropriate expertise for the participant's conditions and/or circumstances.
- If it is otherwise reasonable and appropriate that a replacement assessment take place.

NLA otherwise reiterates our previous recommendations that:¹⁶

- NDIA operational guidelines, and where appropriate the NDIS rules, should provide for participant choice in how they participate in a replacement needs assessment and look for options which may limit unnecessary repetition or the need for additional materials to be provide;
- The NDIA develop a process by which a participant can agree for answers or information to be reused from their original assessment.
- where the CEO must arrange for the replacement assessment to be undertaken, the rules should require consideration be given to as to whether the assessment be conducted by a different assessor, in line with similar provisions in sections 100(5A) and 100(5B) of the NDIS Act.

1.2 Budget method rules

1.2.1 Information to understand how budgets are calculated

The consultation paper provides very high-level information about the way in which budgets will be calculated based on the SNA. We understand further details will be provided later in 2026. There many supports where it is proposed that the budget is to be calculated using “funding levels driven by policy and rules” or “benchmark pricing”. Without further information about what those funding “levels” or “benchmarks” are and how they are to be determined, it is difficult to provide feedback as to whether that is a reasonable approach. It also not clear what safeguards and human oversight will be

¹⁶ National Legal Aid, [NDIS Rules: New framework planning](#) (Submission to the Department of Health Disability and Ageing, 6 March 2026) 27-28.

included in the budget method calculation to ensure formulas do not produce an obviously inaccurate or inappropriate result for participants.

Recommendation 13: Provide further information about the criteria and methodology for determining participants' budgets

NLA recommends that further information be provided about what specific criteria and methodology will be applied by the NDIA in determining a participant's budget to enable stakeholders to understand how it is proposed that a budget will be calculated and to meaningfully participate in the consultation process.

1.2.2 Participant plan template

Recommendation 14: Include detail in participant plans about the budget methodology, and list the supports that participant can access

NLA recommends that participant plans include detail about the budget methodology used to create their budget and assumptions made about their support needs based on the SNA report. For example, it should specifically provide detail such as:

- How many hours of support from a support worker the participant has been funded for per day and at what ratio in working out the total budget;
- How many hours of therapy have been funded for the participant in working out the total budget.

Even though the funding will be flexible and participants are not bound by those determinations, this will assist participants to understand how they can use their funding and mitigate the risk of a participant over spending the budget before the funding period has ended.

Further, rather than simply stating that certain components of the funding are flexible and can be spent on broad categories of supports, NLA recommends that plans specifically list the supports that a participant can use with the funding. This will provide guidance as to what items and supports can be purchased. For example, under the support category "Disability – related health supports – consumables", rather than stating that this funding can be used for "Single use, or limited re-use, items that are required to manage a participant's health conditions, where supports are required due to the functional impact of a participant's disability", the plan should specify what supports can be purchased, such as catheters or particular wound care items, depending on the individual participant's support needs. This will give some guidance to plan managers as well. This will also mitigate against the risk of debts being raised against participants. It also has the potential to reduce reviews; as in our experience in

NDIS appeals, there are cases where participants are seeking support they could in fact be funded for, but it was not clear in their plan.

1.3 Plan variation and reassessment rules

NLA welcomes the introduction of variation rules that will ensure variations are available in circumstances including where urgent funding is needed for crisis or safety reasons, for repairs, replacements, emergency veterinary costs for assistance animals, assistive technology and home modifications, and for small increases to existing support needs.

NLA provides the following general feedback and recommendations but would welcome further opportunity to provide comments when more detailed information is made available.

1.3.1 Procedural fairness

Recommendation 15: Ensure procedural fairness such that participants be notified and have opportunity to respond in circumstances where the CEO has explicit ability to make an adverse or different decision under the Act

Where the CEO has the explicit ability to make an adverse or different decision to that which they have been asked to make under sections 47A(1B)(aa) and (9) of the NDIS Act, accepted principles of procedural fairness should be built into the rules, such that:

- participants are notified of the variation being considered by the CEO and the reasons for it; and
- participants have an opportunity to respond and provide any evidence in relation to the proposed alternative variation for the CEO to consider.

1.3.2 CEO initiated variations and reassessments

Recommendation 16: For CEO-initiated variations and reassessments, include rules that require the CEO to act proactively in the interests of participants

The Act provides for variation or reassessment both at a participant's request and the CEO's own initiative. It is important that the rules provide for and require the CEO to act proactively in the interests of participants.

In addition to the considerations already contemplated by section 6(3) *National Disability Insurance Scheme (Variation and Reassessment of Participants' Plans) Rules*

2025 which we predict may be somewhat replicated in any future rules, NLA recommends that for the purpose of s48(5) and 42A(6) the rules require:

- that the CEO is to have regard to the principles in sections 4 and 5 of the NDIS Act or alternatively, that the rules adopt similar considerations which emphasise the rights of people with disability and their carers.
- that the CEO is to have regard to any risks of harm to the participant or another person that may result from their decision. This goes beyond the 47A(1AB)(j)(ib) requirement which only considers if a variation is necessary to prevent or lessen a threat to the participant and not what the impact may be if a variation is not approved.
- that the CEO has a positive obligation to obtain and consider a participant's views on a proposed variation or reassessment. This aligns with earlier comments made regarding principles of procedural fairness and goes beyond the existing requirement to only consider matters *raised* by the participant (*National Disability Insurance Scheme (Variation and Reassessment of Participants' Plans) Rules 2025* section 6(3)(d)).
- that the CEO is to favour the least restrictive option to achieve the intended outcome in relation to decisions regarding:
 - funding periods
 - plan management
 - restrictions imposed under subsection 32F(6)
 - requirements under subsection 32H(1).

Recognising that for various reasons, a participant may struggle to exercise their right to request a variation or reassessment, the rules should consider providing circumstances under which a CEO must initiate a variation or reassessment. For example, in relation to section 47A(1AB)(h) the rules should require that the CEO must initiate a variation where they become aware that one of the circumstances mentioned in subsection 32F(7) exist, rather than relying on a participant to make their own request.

1.3.3 Use and management of funding

Several of the permitted variations relating to new framework plans concern the use or management of funding, including funding periods, restrictions, and requirements (ss 47A(1AB)(c)- (i)).

Recommendation 17: That the rules relating to funding periods, plan management, restrictions and requirements adopt a least restrictive approach and require decision makers to give effect to a participant's stated preferences where reasonably practicable.

We refer to NLA's previous submission to the DHDA Public Consultation on New Framework Planning, particularly relating to spending rules and NLA's recommendations 36 to 43.¹⁷ In those submissions we address concerns relating to limits to choice and control, the imposition of restrictions and requirements, and default funding periods.

We recommend rules relating to variations under sections 47A(1AB)(c)-(g) and (i) address those same concerns raised, including requirements for decision makers to give effect to a participant's stated preferences where reasonably practicable and to consider:

- any risk of harm to the participant or others;
- whether the intended benefit or purpose of any existing funding periods, restrictions or requirements is being achieved; and
- whether there is a less restrictive option available.

In relation to funding periods, we note our experience that "default" funding periods are regularly applied and can limit a participant's ability to access necessary funding, reduce choice and control and place the participant in crisis. The new rules should make clear that variations to funding periods, including the "front loading" of funding periods, are available where the existing funding period is not meeting its intended purpose, is creating a barrier to accessing supports or is placing the participant at risk of harm or crisis.

1.4 Further considerations

We have outlined some further considerations based on the practice experience of Legal Aid Commissions but welcome the opportunity to comment further as more details become available.

1.4.1 Who can request or initiate a variation

Recent changes to the NDIS Act have imposed limitations around who can request a reassessment. This can present logistical difficulties, for example, participants who

¹⁷ National Legal Aid, [NDIS Rules: New framework planning](#) (Submission to the Department of Health Disability and Ageing, 6 March 2026) 32-38.

lose or have fluctuating capacity and do not yet have an appointed nominee, will experience great difficulties in requesting a reassessment.

The rules should permit a participant to authorise a trusted person or professional, including a lawyer, advocate, social worker, support worker or family member, to lodge a variation or reassessment request on their behalf without requiring formal appointment as a nominee or guardian. A simple written-authority process, supported by appropriate safeguards, would preserve participant choice while ensuring access to necessary assistance.

Recommendation 18: Permit participants to authorise a trusted person or professional to lodge variation and reassessment requests on their behalf

NLA recommends that the rules permit participants to authorise a trusted person or professional to lodge variation and reassessment requests on their behalf through a simple and accessible authority process.

1.4.2 Short-term variations pending reassessment or review

Recommendation 19: That the rules provide continuity of supports during reassessments, reviews, and tribunal processes

NLA recommends that the rules support continuity of supports during reassessment, internal review and Administrative Review Tribunal processes where there is a risk of harm or disruption to essential supports.

Variations should allow short-term top-ups to plans even where the additional support may ultimately form part of a longer-term change, including while a participant is waiting for a reassessment, an internal review decision, or an Administrative Review Tribunal outcome. The rules should clarify that this is permitted where there is a risk of harm to the participant or others and a need to ensure continuity of support.

For example, Legal Aid has assisted clients at risk of losing a supported independent living placement where without a short-term top-up during Tribunal proceedings, the participant could be placed in a worse position even if ultimately successful in the Tribunal. Similarly, we have had cases where service providers, with whom a participant has a long term established relationship, would be forced to withdraw services with no guarantee of reinstatement even should funding become available later.

We are aware in some cases of funds being made available by way of variation to funding periods, but this can carry significant risk of a client having insufficient funds during later stages of their plan. Short-term top ups of plans to maintain continuity of supports is important where there are active disputes on foot to reduce the risk of harm.

1.4.3 Significant change and crisis or emergency funding

Recommendation 20: That the rules for crisis and emergency funding should not require a “significant change”

NLA recommends that the new rules should not adopt the current rules drafting regarding crisis and emergency funding which requires a “significant change”.

In Legal Aid’s experience, crisis or unsafe situations requiring further funding are not always a result of a significant change to one of the categories as outlined at section (5)(3)(b) of the current rules. Crisis or urgency can arise when adaptive measures are no longer working, and/or needs were not considered at the time of reassessment due to lack of capacity, insight or a missed review date which has evolved into an unsafe situation. For example, we frequently represent clients who, following the introduction of a new service or appointment of a guardian or engagement with an advocate, finally identify and seek an increase in supports after having lived with much lower levels of support in an ongoing unsafe or crisis situation for several years.

Current rules create uncertainty on the availability of a variation where the need for a support has existed for some time, but a participant has not had the knowledge or capacity to pursue it. The new rules should clearly provide that variations are available in these circumstances.

New rules should also not adopt the current wording in section (3)(e) of the current rules. The inclusion of an equivalent sub-rule in the new rules should clarify that a person’s admission or possible admission to a state-based hospital as a result of crisis or emergency does not mean that emergency or crisis funding is more appropriately funded by an alternative system.

1.4.4 Minor changes

Recommendation 21: That the rules for minor variations should be clarified and allow greater flexibility

NLA recommends that the new rules should not adopt the same conditions for minor variations at (4) and (5) of the current rules. The present drafting is overly restrictive and confusing. It is unclear whether a minor variation can apply to more than one support. This can be limiting and lead to inconsistent outcomes where a support can be characterised as a single support or as a series of supports. It has also created confusion where the specific period of time may not be measurable from the outset or where the request relates to a temporary increase in an existing support. Further, Tribunal guidance has been required to clarify that cost is irrelevant to whether a

variation can be considered minor. Should the new rules adopt a similar concept of “minor”, they would benefit from greater flexibility and clarity than the current rules.

1.4.5 Quotes and related supports

Recommendation 22: That the rules ensure variations are available in circumstances where updated information is provided

The rules should make it clear that a variation is available where information is provided to the CEO, other than by way of notice under sections 36(2) and 50(2), for the purpose of section 47A(1AB)(j)(ii), such as where a quote is provided by a participant after the plan has come into effect. Alternatively, this type of variation may be covered by other variation provisions, such as section 47A(1AB)(b). The provisions are not entirely clear which section best applies to certain variation requests, the rules could provide greater clarity in relation to this.

The rules should also ensure variations are available for all aspects of a modification, including complex home modifications, vehicle modifications and assistive technology, where the variation may concern multiple, related supports.

The new rules should adopt the provisions of the existing rules which provide for variations where quotations, or the availability of a support at the previously accepted quoted price, have changed. This is needed where there is delay in reassessment or review as, in Legal Aid’s experience, quotations often expire before the funding becomes available to the participant to purchase the approved item.

1.4.6. Support needs assessments

We understand that a new or updated support needs assessment will not be required for a variation. If an assessment is required in some circumstances, the rules should clearly identify those limited circumstances and permit only the additional assessment modules relevant to the variation, rather than requiring a complete reassessment.

2. NDIS Supports

NLA has provided our initial feedback on the proposed changes to NDIS Supports rules in the following sections. We look forward to the exposure draft of the rules which we anticipate will allow us to provide more fulsome feedback on the practical operation of the changes.

2.1 What is not a NDIS Support

We have several concerns about the proposed exclusions that set out what is not a NDIS support in Schedule 2. Firstly, it is unclear whether other elements of the current rules will be retained. We assume the current definition of “standard item” will remain. Given that, it is unclear on the information available whether the proposed additional excluded items in Schedule 2 will only be “standard items” of that type or all items will be excluded. We recommend that this be clarified.

Secondly, we consider that if a participant requires a support because of their disability, they should be able to access it even where it is a standard item. If a person requires, for example, a long-handled brush directly as a result of their impairments, then it should not be relevant that it is a standard item that has not been modified or adapted for their disability, or that it is available commercially¹⁸. In our view the focus on standard items is an arbitrary and artificial limit on what supports a person can access and also inflates the costs of supports as it prevents the purchase of cheaper items that would meet a participant’s disability needs. This is an issue across Schedule 2.

Thirdly, it is unclear why it is proposed to exclude electronic noise-cancelling headphones as an NDIS support. There are a range of scenarios where these may be crucial to meet a person’s disability support needs. For example, a participant may require electronic noise-cancelling headphones due to the impacts of severe difficulties with emotional regulation or sensitivity to noise as a result of psychosocial conditions like C-PTSD. We recommend noise-cancelling headphones are not added to Schedule 2.

Finally, it is unclear what changes are proposed in relation to fencing and gates. Currently, standard fencing and gates are in item 1 of Schedule 2, so are already not generally a NDIS support that can be accessed. Non-standard fencing and gates (i.e. fencing and gates which are modified or adapted to address the functional impairments of a participant or prospective participant)¹⁹ which are critical to a participant’s safety should still be accessible.²⁰ We recommend clarifying the impact of the proposed change to fencing and gates, and make clear that non-standard fencing and gates can still be an NDIS support.

¹⁸ We understand from the New Framework Planning Rules Consultation Paper – August 2026 that NDIS supports can be purchased from any retail, hardware, pharmacy or other stores, at page 12.

¹⁹ *National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (NDIS Supports) Transitional Rules 2024*, section 4, definition of “standard item”.

²⁰ See *Chief Executive Officer, National Disability Insurance Agency and Hyde (Guidance and Appeals Panel)* [2025] ARTA 2597.

Recommendation 23: Clarify the proposed exclusions of NDIS supports

NLA recommends that, in relation to the proposed additions to Schedule 2:

- a) Clarify whether the proposed additional items will be “standard items” of that type.
- b) Facilitate the purchase of standard items where they are required to address the functional impact of disability. This is particularly relevant for example to the proposal to remove hair styling tools as a NDIS support.
- c) Do not include noise-cancelling headphones in Schedule 2, which may be required due to the impacts of for example psychosocial conditions like C-PTSD.
- d) Clarify how the proposed addition of fencing and gates differs to what is already contained in item 1 of Schedule 1, and confirm that non-standard fencing and gates can be a NDIS support.

2.2 Replacement supports

We understand from the consultation paper that the Department proposes the following:

1. Allow for tablets, smart phones, smart watches and apps for accessibility and communication which are currently able to be the basis for replacement support applications to be:
 - added to old framework plans but only where they are stated supports and where they meet relevant requirements for this (noting these requirements have not been set out)
 - included in new framework plans where they are assessed as being needed as part of the new framework planning process (noting the circumstances in which they will be able to be funded have not been set out),
2. Remove the ability to apply for replacement supports including removing the capacity to make a replacement supports application for standard commercially available household items.

In relation to the first proposal, we also understand from the consultation that people have been accessing tablets, smart phones, smart watches and apps for accessibility and communication through the replacement support process at a high rate. For this reason, we are supportive of a simplified pathway that achieves the same objectives.

Our primary concern with the first proposal is that it may be very difficult for participants on old framework plans to access these supports if the replacement support pathway is removed. This is because the windows to amend plans have narrowed significantly due the impact of the most recent NDIS reforms.

Firstly, these supports will not be stated supports in current plans as the requirement they be a stated support is new. That means a new plan will be required. With automated plan renewals beginning from February 2027, participants will no longer have their usual reassessment touch point. They will therefore need to seek either an unscheduled plan reassessment, or a plan variation. The bar for an unscheduled plan reassessment is significantly higher a result of the reforms and unlikely to be met for this reason alone, and plan variations do not provide an obvious pathway for this change. For this reason, we recommend continuing to allow for replacement supports for these items to ensure the transition proposed does not prejudice people who require these supports, but don't have a clear pathway to get them added as stated supports.

In relation to new framework plans, we also understand tablets, smart phones, smart watches and apps for accessibility and communication will require a targeted assessment. It is not clear what the criteria will be, and it also unclear whether this will also be required for old framework plans, and if so how these will be conducted for an old framework plan or a plan which is not expected to transition to a new framework plan for some years.

In relation to the second proposal that will remove the process for replacement supports to apply for standard commercially available household items, we oppose this. As noted above when discussing supports that a not NDIS supports, commercially available items that achieve the same objective can reduce the costs of the scheme, and it arbitrary to have no pathway to access these items if they are items that would meet a participant's disability needs.

Recommendation 24: Retain inclusion of tablets, smart phones, smart watches and applications for accessibility and communication as stated supports

To address the transition issues arising from the removal of replacement support determinations and inclusion of tablets, smart phones, smart watches and apps for accessibility and communication as stated supports:

- a. Retain the replacement support pathway for these items in combination with the proposed changes to allow for a transition that does not prejudice people who need these supports.
- b. Clarify and consult on how these supports will be included as stated supports in old framework plans and what criteria will be used.
- c. Clarify and consult on what the criteria will be for assessment of these items in new framework plans.
- d. Retain the ability to apply for a replacement support for commercially available household items.

2.3 Proposed Support Categories

Recommendation 25: Revise the proposed support categories and items to ensure supports are adequately covered

NLA recommends the following changes (set out in Table 1) to the proposed support categories²¹ to ensure clarity and that important supports are adequately covered.

Table 1. NLA Recommendation 24: Revisions to the proposed support categories

Proposed Item	Recommended changes
1 – Assistance animals	NLA recommends inserting “flea and worm treatments, medication, and vaccinations” so participants are not required to bear these costs that may otherwise make an assistance animal unaffordable.
2 - Assistive technology – assets and 3 – Assistive technology - other	NLA recommends changes to ensure proposed items 2 and 3 are clear and do not narrow the scope of assistive technology supports: - Ensure both devices and products are referred to in each example given in item 2 and 3, and not one or the other to avoid any confusion. - Insert “and consumables” specific to assistive product to ensure assistive technology consumables are covered.
2 – Assistive technology - assets	NLA recommends, to ensure existing supports are clearly retained within proposed item 2, amending and clarifying the relevant examples as follows: - Regarding current item 7, amend the example to read “disability specific equipment for sport and recreation activities; and the modification and adaptation of mainstream <u>sporting and</u> recreational equipment” to clarify that modification/adaption of sporting equipment is covered. - Regarding current item 9, amend the example to read “furniture <u>and other products</u> designed <u>or adapted</u> to address a disability support need, to help with movement, positioning and other safety needs. - Regarding current item 13, clarify where assessment and specification of these products (by a prosthetist, orthotist, pedorthist, podiatrist or occupational therapist) will be covered, and clarify by way of example that “osseo-integrated, external products” are included.

²¹ We note the consultation paper at page 6 states there are 18 new support categories, however there are 19 in Appendix 1 (numbered 1-20, but with no item 11), with the addition of early intervention supports for early childhood.

Proposed Item	Recommended changes
3 – Assistive technology – other	In proposed item 3, change the examples to refer to “assistive, <u>modified or adaptive</u> products” for greater consistency with the current items, and to ensure clarity.
4 – Behaviour support	Change the example relating to training and ongoing monitoring to relate to other supports, rather than only disability support workers, as supports like allied health, support coordinators, guardians and trustees are critical to implementing positive behaviour support strategies.
5 – Disability related health supports	To ensure supports currently covered under current items 12 (community nursing care) and 16 (disability-related health supports) are retained, amend proposed item 5 to: a. Provide for training for informal supports or disability support workers to “undertake any of the above tasks and respond to a participant’s complex needs where it is safe to do so” to ensure training can properly cover a participant’s complex support needs in addition to delegating health supports themselves. b. Ensure the continued inclusion of current items 16 example (b) and (c) namely: i. supports for people with complex communication access needs or behaviour around access to health mental health services; and ii. specialist allied health services and supports for people with recently acquired severe conditions.
7 – Early intervention supports for early childhood	NLA recommends changing the ages for which early childhood intervention supports can be provided back to 0-9 (and 0-6 for children with developmental delay).
10 – In-home and community supports	NLA recommends that proposed item 10 be amended to: a. Include support to participate in and access group and centre-based activities, rather than only to access same, to ensure support for the activity itself and any support required by the participant to participate is able to be provided. b. Clarify that high intensity supports by a suitably qualified worker are included to ensure appropriate support for a participant’s complex needs, exclusion of which could have life-threatening consequences. c. Ensure proposed item 10 clearly includes accommodation and tenancy assistance. d. Include a reference to positioning support and replace “showering” with “bathing/showering” in relation to self-care activities, to ensure support with positioning and all forms of washing is covered (as under current item 14).

Proposed Item	Recommended changes
	e. Reinstate meal delivery (as under current item 23) for participants with complex and specific dietary, textural and nutritional needs which cannot be met through assistance for meal preparation.
13 – Medium-term accommodation	NLA recommends that proposed item 13 provide that medium-term accommodation is available where a person’s long-term or permanent accommodation <u>or other supports</u> are not yet ready to ensure a person has the supports they need to be safe in their accommodation.
15 – Private vehicle transport	NLA recommends that proposed item 15 clarifies that transport can be provided by support workers and provide that private transport can include shared transport other than public transport, where appropriate.
20 – Therapy support	NLA recommends that, in relation to proposed item 20: a. Clarify that assessment, prescription, implementation, adjustment and training in the use of assistive products relates to both assistive products <u>and devices</u>, consistent with the new drafting in the proposed assistive technology items 2 and 3. b. Clarify that specialised hearing services for participants with complex needs are included by way of an example. c. Clarify that assessment and specification (prescription) of a prosthesis or orthosis by a professionally qualified prosthetist, orthotist, pedorthist, podiatrist or occupational therapist is intended to be covered. d. Include “transport that is ancillary to the provision of these supports” to ensure that participants who require in-home therapy support due to their impairments or location are able to access it.

Further explanation of the recommendations for each proposed item is provided in the sections below.

2.3.1 Proposed item 1 – Assistance animals

Proposed item 1 replaces current item 2, however unlike current item 2 it does not include “flea and worm treatments, medication, and vaccinations”. We are concerned these supports would not be clearly covered under the other examples including “veterinary services”, especially in circumstances where “services” has been narrowly interpreted.²² A participant incurring these costs themselves may lead to assistance animals being unattainable or unsustainable, and clarity would also assist participants to understand what expenses they can incur under their plan.

²² See CEO, National Disability Insurance Agency and Roberts (Guidance and Appeals Panel) [2025] ARTA 2628.

2.3.2 Proposed items 2 and 3 – Assistive technology

We welcome consolidating assistive technology into less support categories, which we consider will make the items simpler, easier to understand, and apply. However, we have some concerns in relation to proposed item 2 (assistive technology – assets) and proposed item 3 (assistive technology – other).

The chapeaus in relation both items 2 and 3 refer to devices or products, whereas some examples in the relevant items relate only to products and/or devices. To avoid confusion we recommend each example clearly refers to both products and devices (i.e. not one or the other).

Neither proposed item 2 nor 3 include consumable items specific to assistive technology. Whilst proposed item 6 (disability-related health supports – consumables) refers to consumables in relation to a participant's health conditions, it does not include consumables in relation to assistive technology, such as liners and socks/sheaths/gloves for prostheses. The current NDIS rules explicitly provide for consumables for assistive technology.²³ We recommend including “and consumables” specific to assistive products.

2.3.3 Proposed item 2 – Assistive technology - assets

Proposed item 2 appears to replace current items 7 (assistive equipment for recreation), 8 (assistive products for household tasks), 9 (assistive products for personal care and safety), 11 (communication and information equipment) 13 (prostheses and orthoses), 20 (hearing equipment), 28 (personal mobility equipment), 31 (specialised hearing services), 35 (vehicle modifications), and 36 (vision equipment).

We consider there are three areas where there appear to be unintended consequences or further clarification required in relation to proposed item 2.

- **Assistive equipment for recreation – current item 7.** The proposed item 2 refers to allowing funding to be used on disability specific equipment for sport and recreation and then further allows for the modification and adaptation of mainstream recreation (but not sport) equipment. Given both sport and recreation equipment are referred to in this section, we consider providing that modification and adaption only refers to recreational equipment is confusing and could exclude sporting equipment. To provide clarity and to ensure sporting equipment is not excluded, amend proposed item 2 to refer to the modification and adaptation of mainstream sporting and recreational equipment.

²³ *National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (NDIS Supports) Transitional Rules 2024, Schedule 1, items 7, 8, 9, 11, 13, 28 and 35.*

- **Assistive products for personal care and safety – current item 9.** The proposed item 2 includes “furniture designed to address a disability support need” to help with movement, positioning and other safety needs. The current item 9 refers to furniture and other products, that are adapted or specifically made to help with movement, positioning and other safety needs. We are concerned that these drafting changes will limit what proposed item 2 covers. NLA recommends changing the example to read “furniture and other products that are adapted or designed to address a disability support need, to help with movement, positioning and other safety needs”.
- **2.3.3.3 Prostheses and orthoses – current item 13.** It is unclear where assessment and specification (prescription) of prostheses or orthoses will continue to be covered, as they are not referred to in either proposed item 2, or proposed item 20 (therapy supports – see further below). We are concerned that not including an example of assessment and specification of these products will mean they are not covered by Schedule 1. Not covering assessment and specification/prescription of prostheses and orthoses will prevent participants who cannot pay themselves for assessment from accessing these critical supports. Proposed item 2 also does not refer to “osseo-integrated, external products” as included in current item 13. We are concerned that this will be read as an intention to exclude those products. We recommend clarifying where assessment and specification (prescription) of prostheses and orthoses are intended to be covered under the proposed changes and confirming osseo-integrated external products are intended to be included by way of an example.

2.3.4 Proposed item 3 – Assistive technology - other

Proposed item 3 replaces current items 8 (assistive products for household tasks), 9 (assistive products for personal care and safety), 11 (communications and information equipment), 20 (hearing equipment), 28 (personal mobility equipment), and 36 (vision equipment).

We are concerned the examples given relate to “assistive products”, whereas the current items include “modified or adaptive” products. This change in drafting may limit what is covered in proposed item 3 further than what is contained in the current items. For example, we are concerned proposed item 3 would not cover the “modified or adaptive clothing” referred to in current item 9 as it is not an “assistive” product which helps someone complete dressing with existing clothing, but an already modified product.

NLA recommends changing the examples to refer to “assistive, modified or adaptive products” for greater consistency with the current items, and to ensure clarity.

2.3.5 Proposed item 4 – Behaviour support

Proposed item 4 replaces current item 10 (specialist positive behaviour support). We are concerned that proposed item 4 now includes training and ongoing monitoring of “disability support workers” whereas the current item 10 provides for training and monitoring of “staff”. Other supports, like allied health providers, support coordinators and a participant’s guardian or trustee may also require training in behaviour support strategies and are critical to ensuring positive behaviour strategies can be implemented.

We recommend clarifying that training/monitoring can relate to anyone providing support to a participant, rather than only disability support workers. We also recommend changing the example relating to training and ongoing monitoring to relate to other supports, rather than only disability support workers, as supports like allied health, support coordinators, guardians and trustees are critical to implementing positive behaviour support strategies.

2.3.6 Proposed item 5 – Disability-related health supports

Proposed item 5 replaces current items 12 (community nursing care) and 16 (disability-related health supports).

In relation to community and nursing care, proposed item 12 provides for training for informal supports or disability support workers only to undertake the listed activities, whereas the current item 12 provides for training to respond to a participant’s complex needs. Training to respond to a participant’s complex needs can be broader than training to undertake the same tasks as a clinical nurse. For example, in relation to pressure wounds, effective support may include positioning to reduce the risk and looking for early signs to escalate to the clinical nurse, and we are concerned that training for this and other training around complex needs would not be covered by the proposed item 12, as these are not expressly set out as listed activities.

In relation to disability-related health supports, we are concerned that key supports referred to in (b) and (c) in the current item 16 are not included and it is unclear where these supports are otherwise intended to be covered. The relevant supports are for people with complex communication access needs or behaviours around access to health or mental health services, and specialist allied health services and supports for people with recently acquired severe conditions including spinal cord and severe acquired brain injury. These are crucial supports and it appears access to these supports is now being removed.

2.3.7 Proposed item 7 – Early intervention supports for early childhood

We have significant concerns that the ages during which early childhood intervention supports can be provided have been reduced by one year to 0-8 (and 0-5 for children with developmental delay).²⁴

Early intervention supports are intended to reduce long-term impacts and reduce future support needs. We are concerned about the disproportionate impact on already disadvantaged groups, like children from CALD and migrant backgrounds, regional areas, and lower socioeconomic backgrounds. This is because children from these cohorts may not have developmental delay recognised or diagnosed until later in life, perhaps when starting school or free kindergarten (if available in their area), and by the time they are able to see a pediatrician for a diagnosis of developmental delay on a lengthy public waiting list, they may already be older than or approaching 5, and have limited or no benefit from early intervention supports. We are concerned this will result in worse outcomes and greater long-term costs for the scheme, and it's not clear what the basis is for this change.

NLA recommends that in proposed item 7, to change the ages for which early childhood intervention supports can be provided back to 0-9 (and 0-6 for children with developmental delay).

2.3.8 Proposed item 10 – In-home and community supports

Attachment 1 to the consultation paper lists proposed item 10 as being relevant to current items 3, 5, 14, 15, 21, 23, 24 and 27. It also appears relevant to current item 1 (accommodation assistance or tenancy assistance). We broadly welcome consolidating all in-home and community supports into one item and consider this will make the supports rules easier to understand and apply. However, the current drafting raises issues which appear to fundamentally limit access to supports.

2.3.8.1 Centre-based activities and participation in community, social and civic activities

In relation to group and centre-based activities and participation in community, social and civic activities, proposed item 10 includes assistance to access group and centre-based activities. However, the text currently does not include support to participate in, attend or pay for group and centre-based activities, and this does not appear to otherwise be covered elsewhere. Group and centre-based activities are critical supports for many participants, and are invaluable at providing social connection, and developing not only social but also daily life skills. It is crucial that programs are not only

²⁴ From 0-9 and 0-6, respectively.

available to those who can afford to pay for them, and we recommend clarifying that the programs themselves are intended to be covered.

2.3.8.2 High intensity daily personal activities and innovative community participation

We are concerned that proposed item 10 does not explicitly provide for high intensity support provided or supervised by a suitably qualified worker, where a participant has complex needs. For example, a suitably qualified worker to deliver dysphagia supports will have skills and knowledge regarding hygiene and infection control, identification of risk factors such as swallowing or breathing difficulties, and first aid knowledge.²⁵ The risk of not covering high intensity supports could be fatal. We recommend clarifying that high intensity supports are included.

2.3.8.3 Managing life stages, transitions and supports, and accommodation assistance

Proposed item 10 also appears to reference supports currently covered in current item 1 (accommodation assistance or tenancy assistance). We note however that it does not appear to be mapped in Attachment 1 to the consultation paper as being relevant to current item 1. We are concerned that proposed item 10 does not include an example allowing for providing tenancy assistance or supports to help a participant apply for a rental tenancy or take part in tenancy obligations, whereas current item 1 does.

Proposed item 19 however is mapped against current item 1, but again only provides for support to connect with other supports, and does not provide direct tenancy assistance support. Tenancy assistance can be significantly impacted by a person's impairments and require direct support to ensure participants have the best chance at stable accommodation, which is foundational to building or maintaining functional capacity. To ensure this assistance is available we recommend clarifying that proposed item 10 includes accommodation and tenancy assistance.

2.3.8.4 Daily personal activities and meal delivery

In relation to daily personal activities in current item 14, we are concerned the example of "mobility support and transfers" may cause confusion around whether a person can access support in positioning, which is different to mobility and transfers. For example to reduce incidence of pressure sores for people with very limited mobility who spend a lot of time in a bed or wheelchair, repositioning is crucial. We are also concerned that "showering and dressing" may not clearly include support for other washing such as bathing and bed baths, where bathing may be required due to complex postural needs, and bed baths may be required for participants with very limited mobility and difficulty

²⁵ See NDIS Practice Standards: high intensity supports skills descriptors, available at: [NDIS Practice Standards: High intensity support skills descriptors](#)

completing transfers. We recommend including an example that refers to “positioning support” and replacing “showering” with “bathing/showering”.

We also note meal delivery, as it appears in the current item 23 “meal preparation and delivery”, has been excluded. Pre-prepared meal delivery can be a critical support for participants with complex and specific dietary, textural and nutritional needs arising from their impairments (e.g. severe autism, C-PTSD or other psychosocial conditions leading to distrust of unpackaged meals, or cerebral palsy which can make it difficult to maintain weight and eat enough) which cannot be catered to by support workers, even in conjunction with a meal plan from a dietitian. We recommend that meal delivery for participants with complex and specific dietary, textural and nutritional needs which cannot be met through assistance with meal preparation, be retained.

2.3.9 Proposed item 13 – Medium term accommodation

In relation to current item 1, medium term accommodation (MTA) can be funded where a participant’s current accommodation is unsafe or unsuitable, and where the participant cannot move into their long-term accommodation due to that accommodation or other supports not being ready. We are concerned that proposed item 13 only allows for medium term accommodation where a participant’s long term or permanent accommodation is not ready but does not include reference to “other supports” not being ready. The re-insertion of “other supports” is crucial, as it allows for consideration of the delay in obtaining support workers for the long-term or permanent accommodation, which may for example be in a different geographical location, and required for a person to safely move in. We are concerned it would be dangerous and reduce a participant’s capacity not to provide MTA in these circumstances.

2.3.10 Proposed item 15 – Private vehicle transport

Proposed item 15 replaces current item 6. We are concerned that it now may only cover costs associated with private vehicle transport and gives examples of taxis and rideshares, rather than broader supports that provide travel assistance in the current item 6. We are concerned this would exclude providers like support workers providing travel for participants and limit the ability to share transport where appropriate. Support worker transport is a critical and cost-effective support for participants who are unable to access the community via public transport and who may have difficulties using taxi or rideshare due to physical (e.g. AT or mobility) or psychosocial (e.g. difficulty interacting with new people) impairments.

2.3.11 Proposed item 20 – Therapy support

NLA welcomes consolidating all therapy supports, including assistance regarding assistive technology, into one item. We consider this will make the supports rules easier to understand and apply. However, there appear to be four practical impacts to consider from the current drafting:

- In relation to assistive technology, the proposed item 20 relates to assessment, prescription, implementation, adjustment and training in the use of assistive products. Proposed items 2 and 3 regarding assistive technology refer to both products and devices. We are concerned this change in wording has not been picked up in proposed item 20 and could mean that this support will not cover all of the assistive technology it intends to cover, and recommend this be clarified by changing the wording to “products and devices”.
- It is unclear whether specialised hearing services for participants with complex needs in the current item 31 are covered by the proposed item 20, and we recommend confirming that they are.²⁶
- It is unclear how proposed item 20 is intended to operate with proposed item 2 (prostheses and orthoses). Proposed item 20 appears to relate to current item 13, however it is not mapped in Attachment 1 as relating to current item 13. As noted above, proposed item 2 (discussed above) does not provide for assessment and specification (prescription) of a prosthesis or orthosis. As noted previously, we are concerned that assessment and prescription (by a prosthetist, orthotist, pedorthist, podiatrist or occupational therapist) would not be covered by proposed item 20 as they are not a “therapy” and many of the specialists are not “allied health” as referred to in item 20. We recommend including this by way of an example to ensure participants can have assessment and prescription of what is otherwise recognised as an NDIS support.
- Transport which is ancillary to the provision of therapy support also appears not to have been included, although it is included in many other proposed items,²⁷ and is not included in the proposed item 15 (private vehicle transport). Provider travel can be required for allied health professionals where it is unsafe or less effective to provide services in an office, particularly for rural participants, or participants with significant impairments. We recommend including “transport that is ancillary to the provision of these supports” to proposed item 20.

²⁶ Attachment 1 does not set out that proposed item 20 is relevant to current item 31, only proposed item 2 (assistive technology assets), which does not encapsulate the assessment and prescription of audiological aids and equipment for participants with complex needs.

²⁷ For example, proposed items 5 (disability-related health supports), 8 (employment supports), 10 (in-home and community supports), 19 (support coordination).