

SUBMISSION TO THE JOINT STANDING COMMITTEE ON THE NATIONAL DISABILITY INSURANCE SCHEME

**Inquiry into the NDIS: Implementation,
Performance, Governance, Administration and Expenditure**

AND

Inquiry into NDIA Capability and Culture

SYSTEMIC FAILURES IN ASSESSMENT OF AUTISTIC PARTICIPANTS:

*Undocumented Criteria, Clinical Evidence Override,
and Royal Commission Implementation Failures*

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Date: 4 February 2026

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1. PRELIMINARY MATTERS

This submission is made to the Joint Standing Committee on the National Disability Insurance Scheme (the Committee) in relation to its ongoing general inquiry into NDIS implementation, performance, governance, administration and expenditure, and its inquiry into NDIA capability and culture.

The submitter is an NDIS participant with Autism Spectrum Disorder (Level 2), PTSD, ADHD, and multiple co-morbid psychosocial conditions. He is a self-represented applicant in ART proceedings (Case No. ██████████) and has simultaneously engaged eight institutional accountability mechanisms in respect of the NDIA's conduct in his case. This submission draws on that litigation experience and the primary evidence obtained through it to identify systemic issues of direct relevance to the Committee's terms of reference.

The submitter authorises the Committee to publish this submission in full. The submitter is willing to appear before the Committee at a public hearing if requested.

2. EXECUTIVE SUMMARY

This submission identifies four systemic failures in the NDIA's assessment of autistic participants, each documented through primary evidence in active legal proceedings:

1. **Delegates override clinical evidence without clinical qualifications.** NDIA delegates reject the recommendations of Registered Music Therapists, Clinical Psychologists, and Occupational Therapists without holding any clinical qualification and without obtaining contrary clinical opinion.
2. **Undocumented assessment criteria are applied to autistic participants.** The NDIA applies assessment criteria — including characterising evidence-based music therapy as a “hobby” and an invented “primary disability only” test — that do not exist in any published policy, operational guideline, or the NDIS Act itself. An FOI request for these criteria was refused under s24A on the basis that the documents “do not exist.”
3. **Neurotypical assumptions are applied to autism-specific supports.** The characterisation of music therapy as a “hobby” reflects neurotypical assumptions about what constitutes therapeutic value for autistic people. This characterisation contradicts the clinical evidence base, the accreditation standards of the Australian Music Therapy Association (AMTA), and the NDIA's own registered support categories.
4. **The Government's Royal Commission commitments have not been implemented.** The NDIA's conduct in this case is directly contrary to at least five accepted or accepted-in-principle Disability Royal Commission recommendations relating to supported decision-making, equitable healthcare access, specialist clinical assessment, and data transparency.

These are not isolated errors. They reflect structural deficiencies in NDIA assessment methodology that affect the 52% of NDIS participants who are autistic. The Committee is uniquely positioned to investigate whether these patterns are systemic and to hold the NDIA accountable for its compliance with accepted Royal Commission recommendations.

3. THE CASE: ALKHALAF v NDIA

3.1 Background

The submitter is an NDIS participant with multiple, complex, and interacting disabilities: Autism Spectrum Disorder (Level 2), Post-Traumatic Stress Disorder, ADHD, Major Depressive Disorder, Generalised Anxiety Disorder, and OCD.

These conditions interact to produce significant functional impairments in executive function, emotional regulation, social communication, and daily living activities.

On 19 June 2025, the NDIA issued an Internal Review Decision (the “Decision”) that refused or reduced critical supports.

The submitter applied to the Administrative Review Tribunal (ART) on the grounds of legal error, failure to engage with clinical evidence, and procedural unfairness.

The matter is listed for hearing on 17 February 2026. A summons to produce documents has been issued to the NDIA.

3.2 Specific NDIA Conduct

3.2.1 The “Hobby” Characterisation

The Decision states that the submitter’s music therapy goals “focus on your engagement with music as a hobby rather than on functional outcomes directly related to your disability.”

This characterisation was made despite the following evidence on file:

- (a) an NDIS Review Report from a certified Registered Music Therapist (██████████), dated 14 November 2024) documenting clinical goals, measurable outcomes, and functional progress;
- (b) a plan change request from a disability consultant (██████████), dated 11 April 2025) recommending 32.5 hours of music therapy based on clinical need; and
- (c) the NDIS’s own registered support categories, which recognise music therapy as a funded therapeutic support.

The delegate who characterised this evidence-based therapy as a “hobby” holds no clinical qualification in music therapy, psychology, or any allied health discipline.

No contrary clinical opinion was obtained.

The delegate’s lay characterisation was treated as dispositive.

3.2.2 The “Primary Disability Only” Test

The Decision states: “these conditions are secondary to your Access met primary disability, being ASD and hence NDIS cannot fund additional supports to help you overcome the exacerbation of these diagnoses and associated co-morbidities.”

This invents a legislative test.

Section 34(1)(a) of the NDIS Act requires that a support be “related to the participant’s disability.”

It does not limit funding to a single disability that satisfies access requirements under section 24.

The Administrative Appeals Tribunal has confirmed that co-morbid conditions must be considered (*WRMF v NDIA*).

The delegate has applied a test that the Parliament did not enact.

The systemic implications are significant.

Autism characteristically presents with multiple co-morbid conditions.

If the “primary disability only” test is applied consistently, it would deny therapeutic supports for co-morbid conditions to the majority of autistic NDIS participants.

Autism accounts for approximately 52% of all NDIS participants.

This is not a marginal issue; it is a systemic assessment failure affecting the scheme’s largest participant cohort.

3.2.3 FOI Refusal: Criteria That “Do Not Exist”

The submitter lodged a Freedom of Information request seeking the NDIA’s documented policies, guidelines, or criteria governing: the characterisation of therapeutic supports as “hobbies”; the “primary disability only” test; and delegate authority to override clinical evidence without clinical qualification.

The NDIA refused the request under s24A of the Freedom of Information Act 1982, stating that the requested documents **do not exist**.

This refusal is itself evidence of a systemic failure.

Either the NDIA applies criteria to assessment decisions that are not documented, which means those decisions are unreviewable, inconsistent, and opaque, or delegates are making decisions based on personal judgment unconstrained by any policy framework.

Either interpretation constitutes a governance failure within the Committee’s terms of reference.

3.2.4 Consequences

The Decision and the NDIA’s associated conduct produced the following documented consequences: the submitter was rendered homeless and placed in crisis accommodation; a psychiatric assessment diagnosed catastrophic psychological injury directly attributable to the NDIA’s conduct; ██████ City Council referred the submitter’s former rental property to VCAT regarding dangerous mould levels; and the submitter has been forced to engage eight separate institutional accountability mechanisms as a self-represented litigant with complex disability.

4. SYSTEMIC ISSUES FOR THE COMMITTEE’S CONSIDERATION

4.1 Delegates Making Clinical Judgments Without Clinical Qualifications

The core systemic issue is that NDIA delegates routinely override clinical evidence from qualified allied health professionals without holding clinical qualifications themselves and without obtaining contrary clinical opinion.

In this case, the delegate rejected the recommendations of a Registered Music Therapist, a Clinical Psychologist, a Provisional Psychologist, and an Occupational Therapist.

The delegate’s own lay assessment was treated as the determinative view.

The Committee should consider whether the NDIA's operational framework requires delegates to obtain independent clinical assessment before rejecting clinical evidence provided by a participant's treating team, and whether the current framework, which permits lay override of clinical evidence, is consistent with the duty of supportive and fair engagement under section 3(1)(c) of the NDIS Act.

4.2 Undocumented Assessment Criteria

The FOI refusal under s24A confirms that the criteria applied in this case are not recorded in any documented policy, guideline, or operational procedure.

This raises fundamental governance questions about how the NDIA ensures consistency, accountability, and reviewability of its assessment decisions.

If the criteria by which participants are assessed exist only in the minds of individual delegates, those criteria cannot be: audited for consistency across the scheme; reviewed by participants or their advocates; challenged through standard administrative review processes; or reported on for purposes of systemic quality analysis.

The Committee should consider whether the NDIA's assessment methodology is sufficiently transparent to enable meaningful oversight, and whether the s24A refusal indicates a broader pattern of undocumented decision-making criteria.

4.3 Neurotypical Assumptions Applied to Autistic Participants

The "hobby" characterisation reflects a broader pattern in which NDIA delegates apply neurotypical assumptions to assess the therapeutic needs of autistic participants.

For autistic people, music therapy is a clinically validated, evidence-based intervention that addresses sensory processing, emotional regulation, social communication, and executive function.

To characterise it as a "hobby" is to impose a neurotypical framework on an autism-specific therapeutic modality.

The Australian Music Therapy Association (AMTA) has confirmed that their CEO is personally reviewing this characterisation.

The implications extend beyond this individual case: if NDIA delegates are empowered to characterise any therapy as a "hobby" based on lay assumptions, no therapeutic support for autistic participants is secure.

This is connected to Minister Butler's Thriving Kids announcement of 28 January 2026, which acknowledged that NDIA assessment methodology for children produces inconsistent and unfair outcomes.

This submission demonstrates that identical assessment failures operate across the adult assessment framework and remain unremediated.

4.4 Royal Commission Recommendation Implementation Failures

The submitter has prepared a detailed mapping of the NDIA's conduct against accepted Disability Royal Commission recommendations (annexed to this submission).

That mapping demonstrates contraventions of at least five recommendations:

Recommendation	Subject	Contravention
R6.4–6.10	Supported decision-making framework	The delegate overrode the clinical team's judgment without a clinical qualification, substituting lay opinion for expert evidence
R6.31	Equitable healthcare access	Denied psychology funding for autism co-morbidities; deflected to mainstream services without accessibility assessment
R6.33	Specialist clinical assessment	The delegate performed a de facto clinical assessment without qualifications; they characterised music therapy as a "hobby"
R10.6–10.7	Supported decision-making in NDIS Practice Standards	Participant's clinically-supported decisions overridden unilaterally; no opportunity to address alleged gaps
R10.26	Data transparency and systemic analysis	Assessment criteria undocumented (FOI s24A confirms "do not exist"); systemic patterns invisible to published data

The Government accepted these recommendations. The NDIA has not implemented them. The Committee is the parliamentary body with the mandate to investigate this gap.

5. ACTIONS REQUESTED OF THE COMMITTEE

The submitter respectfully requests the Committee to consider the following actions:

5. **Investigation into delegate clinical override practices.** The Committee should examine the extent to which NDIA delegates override clinical evidence without clinical qualifications, and whether the NDIA's operational framework requires or permits this practice. The Committee could request the NDIA to produce data on the frequency of plan decisions where delegate assessments contradict allied health evidence on file.
6. **Audit of assessment criteria documentation.** The Committee should examine whether the criteria by which NDIA delegates assess "reasonable and necessary" supports are documented in published policy, or whether they exist only as informal or unrecorded practices. The s24A FOI refusal in this case suggests the latter.
7. **Examination of NDIA compliance with accepted Royal Commission recommendations.** The Committee should investigate the extent to which the NDIA has implemented the Government's commitments under the Disability Royal Commission response, with particular attention to supported decision-making (R6.4–6.10, R10.6–10.7), equitable healthcare access (R6.31, R6.33), and data transparency (R10.26).
8. **Public hearing on the treatment of autistic participants.** Autistic people comprise approximately 52% of NDIS participants. The systemic issues identified in this submission, neurotypical criteria, co-morbidity exclusion, clinical evidence override, affect the scheme's largest participant cohort. The Committee should consider a dedicated public hearing on the NDIA's assessment methodology for autistic participants.
9. **Referral to the Commonwealth Ombudsman.** If the Committee's inquiry identifies systemic maladministration, it should consider referring the matter to the Commonwealth Ombudsman for a formal own-motion investigation under the Ombudsman Act 1976.

6. ACTIVE PROCEEDINGS AND ACCOUNTABILITY MECHANISMS

The Committee should be aware that the following proceedings and accountability mechanisms are concurrently active in respect of the NDIA's conduct in this case. This is provided for context and to demonstrate the breadth of institutional engagement already undertaken:

Mechanism	Status	Reference
Administrative Review Tribunal	Summons issued; hearing listed 17 February 2026	ART Case No. [REDACTED]
Model Litigant Obligations	Independent investigator appointed; four categories of conduct under investigation	NDIA MLO investigation
Australian Human Rights Commission	DDA complaint lodged; NDIA 21-day response deadline	DDA discrimination complaint
OAIC FOI Review	Review of s24A refusal	FOI 25/26-0047
APP 13 Correction Demand	3 March 2026 deadline for NDIA response	Privacy Act 1988 s13
Parliamentary Oversight	Questions on Notice confirmed; Ministers notified	Senate Estimates
Media	9 outlets briefed	Public interest journalism
Commonwealth Ombudsman	Systemic complaint lodged; 52% autistic population jurisdiction	Ombudsman Act 1976

The fact that a single NDIS participant has been forced to engage eight institutional accountability mechanisms as a self-represented litigant with complex disability is itself evidence of systemic failure. The complaints and review systems are not functioning as intended. This Committee's oversight role is critical precisely because the existing mechanisms have not, individually or collectively, achieved resolution.

7. CONCLUSION

ANNEXURE A: LIST OF SUPPORTING DOCUMENTS AVAILABLE ON REQUEST

The following documents are available to the Committee on request and can be provided via secure transfer:

10. Royal Commission Recommendation Implementation Failure Mapping (detailed mapping document)
11. Internal Review Decision dated 19 June 2025
12. NDIA internal file notes obtained via Freedom of Information
13. FOI Notice of Decision (s24A refusal)
14. Allied health clinical reports (Music Therapy, Psychology, Occupational Therapy)
15. Psychiatric assessment diagnosing catastrophic psychological injury
16. Sworn affidavit material filed in ART proceedings
17. ART submissions (including Summons to Produce Documents)

18. Model Litigant Obligations complaint and supplementary submission
19. DDA discrimination complaint to the Australian Human Rights Commission
20. Tier-1 Ministerial crisis brief
21. Master Chronology of Facts and Contentions
22. Correspondence with the AMTA regarding the “hobby” characterisation



ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION OF PEOPLE WITH DISABILITY

RECOMMENDATION IMPLEMENTATION FAILURE MAPPING

Case Study: Alkhalaf v National Disability Insurance Agency



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Date: 4 February 2026
Version: 1.0



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1. EXECUTIVE SUMMARY

The Disability Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability published its Final Report on 28 September 2023, containing 222 recommendations for structural reform.

On 31 July 2024, the Australian Government published its formal response, accepting 130 of those recommendations in principle. The Government's 2025 Progress Report, published November 2025, tracks implementation across all accepted recommendations.

This document maps the National Disability Insurance Agency's **documented conduct** in the matter of *Alkhalaf v NDIA* (ART Case No. [REDACTED]) against specific Royal Commission recommendations that the Government has accepted or accepted in principle.

The mapping demonstrates that the NDIA's conduct in this case is **directly contrary** to commitments the Government made to the Royal Commission and to the Australian public.

The central proposition is this: the Government promised the Royal Commission it would reform the treatment of people with disability within the NDIS.

The NDIA's conduct in this case demonstrates that those promises have not been implemented.

The same systemic failures the Royal Commission identified, delegates overriding clinical evidence, lay judgments substituted for expert assessment, undocumented assessment criteria, barriers to healthcare access, continue to operate and to cause serious harm.

This mapping is deployable across the following active accountability mechanisms: the Administrative Review Tribunal (hearing listed 17 February 2026), the Model Litigant Obligations investigation, the DDA complaint before the Australian Human Rights Commission, the FOI review before the OAIC, the APP 13 correction demand, parliamentary oversight via Questions on Notice and the Joint Standing Committee on the NDIS, and the Commonwealth Ombudsman systemic complaint.

2. METHODOLOGY

This mapping identifies Royal Commission recommendations that are:

- (a) accepted or accepted in principle by the Commonwealth Government;
- (b) directed to or directly relevant to the NDIA's operations; and
- (c) contravened by the NDIA's documented conduct in this case.

Each mapping entry contains four elements: the recommendation as published, the Government's stated commitment, the specific NDIA conduct that contravenes it, and the evidentiary basis establishing the contravention.

All conduct described is drawn from primary evidence including: the Internal Review Decision dated 19 June 2025 (the "Decision"), NDIA internal file notes obtained via Freedom of Information, LAC correspondence, allied health clinical reports, and sworn affidavit material filed in ART proceedings.

3. MAPPING: SUPPORTED DECISION-MAKING AND CLINICAL EVIDENCE

3.1 Recommendations 6.4–6.10: National Supported Decision-Making Framework

The Royal Commission recommended a nationally supported decision-making framework to ensure that people with disability can exercise genuine choice and control over their lives, with appropriate support.

The framework requires that all people are presumed capable of making their own decisions with support, and that substitute decision-making is a last resort.

Recommendation	Government Commitment	NDIA Conduct in This Case	Implementation Failure
R6.4–6.10 National supported decision-making framework; reform guardianship legislation; presume capacity	Accepted in principle. Staged implementation. NDIA to embed supported decision-making in NDIS Practice Standards (per R10.6–10.7).	The delegate overrode the clinical judgments of a certified Music Therapist (RMT), a Clinical Psychologist, a Provisional Psychologist, and an Occupational Therapist, all of whom held no clinical qualifications. The delegate characterised evidence-based music therapy as a “hobby” and stated that the NDIA “cannot fund additional supports” for co-morbid psychosocial conditions, inventing a “primary disability only” test not found in the NDIS Act.	DIRECT CONTRAVENTION. Supported decision-making requires that clinical expertise is respected and that lay administrators do not substitute their own judgment for that of qualified clinicians. The delegate’s conduct is the antithesis of supported decision-making: it is substituting decision-making by unqualified personnel.

3.2 Recommendations 10.6–10.7: Supported Decision-Making in NDIS Practice Standards

The Royal Commission specifically recommended that supported decision-making be embedded in the NDIS Practice Standards, thereby ensuring that participants can exercise choice and control over the supports they receive.

Recommendation	Government Commitment	NDIA Conduct in This Case	Implementation Failure
R10.6–10.7 Amend NDIS Practice Standards to reflect the right of each participant to exercise supported decision-making	Accepted. NDIS Practice Standards Guidelines to be amended to reflect the right of each participant to exercise supported decision-making.	The participant and his clinical team identified specific therapeutic supports (music therapy, psychology, occupational therapy hours). The delegate rejected these without engaging with the clinical evidence and without providing the participant an opportunity to address alleged	DIRECT CONTRAVENTION. The participant’s right to exercise supported decision-making over his own plan was denied. Clinical evidence supporting his decisions was dismissed with lay reasoning. The NDIS Practice Standards have

		<p>evidentiary gaps before the decision was made.</p> <p>The participant's own assessment of his support needs, supported by clinical evidence, was overridden unilaterally.</p>	<p>not been operationalised to prevent this.</p>
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4. MAPPING: EQUITABLE HEALTHCARE ACCESS

4.1 Recommendation 6.31: Equitable Healthcare Access

Recommendation	Government Commitment	NDIA Conduct in This Case	Implementation Failure
<p>R6.31 Embed equitable access to healthcare in the Australian Charter of Healthcare Rights</p>	<p>Accepted in principle. Government committed to ensuring people with disability can access healthcare on an equal basis.</p>	<p>The delegate stated: “<i>NDIS cannot fund additional supports to help you overcome the exacerbation of these diagnoses and associated co-morbidities</i>”, effectively denying psychology for autism-related co-morbidities.</p> <p>The delegate deflected responsibility to “mainstream health services” without assessing whether those services could actually meet the participant’s needs, and without evidence that the participant could access them.</p>	<p>DIRECT CONTRAVENTION.</p> <p>The Royal Commission identified that people with cognitive disability face barriers to healthcare access. The NDIA’s conduct creates those barriers by deflecting clinical responsibility to mainstream services the participant cannot access, while simultaneously refusing to fund the disability-specific supports that would bridge the gap.</p>

4.2 Recommendation 6.33: Specialist Multi-Disciplinary Services for Cognitive Disability

Recommendation	Government Commitment	NDIA Conduct in This Case	Implementation Failure
<p>R6.33 Develop specialised multi-disciplinary health and mental health services for people with cognitive disability, including specialist assessment and clinical services</p>	<p>Accepted in principle. States and Territories, with Commonwealth support, to develop specialist services, including assessment and clinical services for cognitive disability.</p>	<p>The delegate, without clinical qualifications, performed what amounts to a clinical assessment by characterising evidence-based music therapy as a “hobby” and dismissing psychologist recommendations regarding co-morbid conditions.</p> <p>No specialist assessment was obtained by the NDIA. No clinical opinion was</p>	<p>DIRECT CONTRAVENTION.</p> <p>The Royal Commission identified the need for specialist clinical assessment for people with cognitive disabilities. The NDIA’s delegates perform de facto clinical assessments without clinical training, contradicting the expert evidence before them. This is the precise failure</p>

		sought to contradict the applicant's clinical team. The delegate's lay judgment was treated as dispositive.	the Royal Commission sought to prevent.
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5. MAPPING: COMPLAINTS, DATA TRANSPARENCY AND ACCOUNTABILITY

5.1 Recommendation 10.26: Expanded Data Reporting and Publication

Recommendation	Government Commitment	NDIA Conduct in This Case	Implementation Failure
R10.26 Expanded data reporting: disaggregated complaints data, systemic issues analysis, operational performance data	Accepted. NDIS Commission to publish comprehensive complaints reports, analyse systemic trends, and report operational performance. DART project funded in 2024–25 Budget. First comprehensive complaints report published August 2024.	The NDIA refused an FOI request under s24A, claiming the assessment criteria applied to this participant (including the “hobby” characterisation framework and the “primary disability only” test) do not exist as documented policies. This means the criteria by which participants are assessed are undocumented, unreviewable, and invisible to published data reporting. Systemic patterns in assessment methodology cannot be identified if the methodology itself is unrecorded.	DIRECT CONTRAVENTION. R10.26 requires transparent, disaggregated data identifying systemic issues. The NDIA operates assessment criteria that are invisible to data collection because they are not documented. The FOI refusal proves the criteria exist in practice but not on paper — making systemic analysis of their discriminatory impact impossible. This is a structural transparency failure.

5.2 Complaints Management Framework Reform

The Royal Commission found that existing complaint systems were too complex and that independent oversight mechanisms were needed.

The Government response noted that the NDIA reviewed its Complaints Management Framework in February 2024 and introduced a new Enquiries, Feedback and Complaints policy.

In this case, the applicant has lodged complaints through: the NDIA internal complaints process, the Administrative Review Tribunal, the Model Litigant Obligations investigation pathway, the Australian Human Rights Commission, the Office of the Australian Information Commissioner, the Commonwealth Ombudsman, and parliamentary oversight channels.

Despite this exhaustive activation of every available mechanism, the underlying discriminatory conduct has not been remediated.

The 19 June 2025 Decision stands.

The participant remains in crisis accommodation.

The systemic criteria by which the Decision was made remain undocumented and unreviewable.

The sheer number of mechanisms required to hold a single decision accountable demonstrates that the complaints framework reforms have not achieved their intended purpose.

The Royal Commission's recommendations contemplated a system where complaints could be resolved efficiently and effectively.

The present case demonstrates the opposite: a participant forced to simultaneously engage eight institutional accountability mechanisms to challenge a single unlawful decision.

6. MAPPING: DISCRIMINATION AND APPLICATION OF NEUROTYPICAL CRITERIA

6.1 The “Hobby” Characterisation as Systemic Discrimination

The delegate's characterisation of evidence-based music therapy as a “hobby” constitutes the application of neurotypical assumptions to an autistic participant's therapeutic supports.

For the autistic population, music therapy is a clinically recognised, evidence-based therapeutic intervention registered under the NDIS and delivered by accredited Registered Music Therapists.

The delegate's characterisation reflects a lay, neurotypical assumption about what constitutes a “hobby” versus a “therapy”, an assumption that would not be applied to, for example, physiotherapy for a participant with a physical disability.

This is directly relevant to the Royal Commission's findings regarding discrimination against people with disability.

The Commission found that people with disability, particularly those with cognitive disability, face systemic barriers arising from assumptions about their capacity, their needs, and the value of their chosen supports.

The “hobby” characterisation is a concrete instantiation of this systemic pattern.

Critically, the Australian Music Therapy Association (AMTA) has confirmed that their CEO is personally reviewing this characterisation as a matter of professional concern.

The characterisation does not merely affect one participant; it has implications for every NDIS participant receiving music therapy, a substantial proportion of whom are autistic.

6.2 The “Primary Disability Only” Test as Systemic Exclusion

The delegate stated that co-morbid psychosocial conditions (PTSD, OCD, MDD, GAD, ADHD) are “secondary to your Access met primary disability” and that therefore “NDIS cannot fund additional supports.”

This invents a legislative test that does not exist. Section 34(1)(a) of the NDIS Act requires that a support be “related to the participant's disability”, it does not limit funding to the single disability that satisfied access requirements under s24.

The Administrative Appeals Tribunal has repeatedly affirmed that co-morbid conditions causing functional impairment must be considered (*WRMF v NDIA*).

The delegate’s invented test is not merely legally wrong; it is systemically discriminatory against autistic participants who characteristically present with multiple co-morbid conditions.

Autism rarely presents in isolation.

The “primary disability only” test, if applied consistently, would deny supports to the majority of the autistic NDIS population — approximately 52% of all NDIS participants.

7. THEMATIC CONNECTION: THRIVING KIDS AND MINISTER BUTLER’S ANNOUNCEMENT

On 28 January 2026, Minister Butler announced the Thriving Kids program, acknowledging that the NDIS assessment framework for children has produced inconsistent, unfair outcomes.

The program commits to reforming how children’s disability supports are assessed and delivered.

The Thriving Kids announcement is a Government admission that NDIA assessment methodology produces systemic failures.

This mapping demonstrates that identical assessment failures, delegates overriding clinical evidence, applying undocumented criteria, substituting lay judgment for clinical expertise, operate across the entire NDIS participant population, not merely in children’s services.

The same structural deficiencies the Government has acknowledged in the paediatric context exist in the adult assessment framework and remain unremediated.

The Royal Commission’s recommendations were not limited to children.

The Government’s acceptance of those recommendations was not limited to children.

The NDIA’s failure to implement those recommendations extends across its entire operational mandate.

8. SUMMARY OF IMPLEMENTATION FAILURES

Recommendation	Government Commitment	Demonstrated Failure
R6.4–6.10	Supported decision-making framework	Delegate overrode the clinical team’s judgment without a clinical qualification; substituted lay opinion for expert evidence
R6.31	Equitable healthcare access	Denied psychology for autism co-morbidities; deflected to mainstream services without assessing accessibility
R6.33	Specialist clinical assessment for cognitive disability	The delegate performed de facto clinical assessment without qualifications; they characterised music therapy as a “hobby”
R10.6–10.7	Supported decision-making in NDIS Practice Standards	Participant’s clinically-supported plan decisions overridden unilaterally; no opportunity to address gaps before refusal
R10.26	Expanded data reporting and systemic issues analysis	Assessment criteria are undocumented (FOI s24A refusal confirms “do not exist”); systemic patterns are invisible to data collection

9. CONCLUSION AND DEPLOYMENT

The Government accepted or accepted in principle the Royal Commission's recommendations to reform how the NDIA treats people with disability.

The NDIA's conduct in this case demonstrates that those reforms have not been implemented.

The same failures the Royal Commission identified, unqualified personnel overriding clinical evidence, systemic barriers to healthcare access, lack of transparency in assessment methodology, inadequate complaints resolution, continue to operate and to cause serious harm.

The consequences in this case are not abstract.

The participant has been rendered homeless, has a psychiatric diagnosis of catastrophic psychological injury directly attributable to the NDIA's conduct, and has been forced to simultaneously engage eight institutional accountability mechanisms to challenge a single unlawful decision.

This mapping is intended for deployment across all active proceedings and oversight mechanisms. The argument is simple: **the Government promised the Royal Commission it would fix this, and it has not.**

Bassam Alkhalaf

Self-Represented Applicant
4 February 2026