Legislating failure

A submission on the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026

Submitted to: Senate Community Affairs Legislation Committee

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1. About this submission

I am the CEO of Carers and Advocates Australia. I am also a woman with a disability, and the mother of four children with disability. I am also, on the front line, a bottom wiper. I have spent years working at the frontline of disability service delivery, advocacy and reform. I have sat in the rooms where the system fails, with the people the system fails, and I have watched what happens next.

I support the need for reform. The current scheme is not working safely, competently or sustainably. But this bill is not the reform the scheme needs. It is a bill that reviews participants, providers, budgets and reassessments while still refusing to seriously review the machinery that built the problem.

The Minister has the steering wheel back. That is not nothing. But what he is doing with it, on the evidence of this bill, is calmly legislating in public while treading water like a nutty duck underneath. Or to put it another way: they told us for years that the NDIS was a plane being built mid-air. I disagree. I think it is a mystery box being assembled in freefall, by people hoping like hell that what they have is a plane.

This submission is what one person who has been in the rooms thinks the Committee should pay attention to, and what a reform bill ought to actually contain.

Before the Committee reads any of the audit-grade material that follows, I want to tell you who I am writing for. Because the only way to read what comes after is to know who has been in the rooms I am about to describe.

2. Why I am writing this submission

I want to spare the Committee the affectations of virtue-signalling delusion. I haven't the stomach for it, and it has not helped anyone. We are all too tired and too worn, and it is all too far down the line to pretend. So I will be direct about who has driven me here.

Tony

I write this submission for Tony. He was my boss. He was my friend. He was my mentor. I worked for him for five years. Before I came along, he had spent fifteen years inside a revolving door of strangers.

In those fifteen years, his bladder was burst by a worker flushing his catheter with tap water. His leg was broken when he was dropped. He suffered third-degree burns from a scalding bath. He was stolen from by staff. He struggled on meals on wheels with one meal a day. He lived in a housing trust estate that had been designed specifically for people with disability, and that was later infiltrated by a different demographic which brought crime and despair into a community we used to hold street parties for. He was told by doctors that he would be dead by thirty. He lived until sixty-five, despite being constantly told along the way that the medical profession had decided he had no quality of life.

He died because an inexperienced speech pathologist at the hospital, who did not understand disability, made him nil by mouth. The absence of his medication, while he was made nil by mouth for the hospital's liability tick box, took his life. He spent fifteen years in front of an old computer watching the same five DVDs over and over again. He lived in squalor. Every item of his clothing was vomit-stained. Not because the people around him did not care, but because support work in this country was not treated as a vocation. It was treated as a transient, slightly-better-paid job than driving for Uber. Because the plans revolved around the so-called necessary — the bottom-wiping — we forgot medical management. We forgot trips to cardiologists, optometrists, dentists, and medication reviews more frequent than every second decade.

Tony's parents

I advocated for Tony's mother through twenty-three court hearings, against three barristers, to get her away from his sister, who was abusing her. I kept it simple and on repeat for two years. I was with her when she died.

I was also with Tony's father — a 93-year-old man who, on a windy day in Adelaide, attended a function where the Prime Minister of Australia was present, because I had decided that if Mohammed would not go to the mountain, the mountain would arrive in a wheelchair with a 93-year-old in it. He went in my own pink lacy underwear that day, because his were not available and I had a spare pair in my bag of clothes. We elevated his son's case. His son received the funding he needed. Later, when the same man was admitted to hospital, he wore the same pink lacy knickers under the gown and winked at the nurse. I was with him when he died too.

Others

I write this submission for another client I advocated for over years, and flew interstate to be with when I became concerned, and sat with for the twenty-nine hours it took him to die. He had struck a consulting arrangement with his own provider, under which he was paid a wage out of his own funding — a wage which did not include his actual care.

I write for another friend whose home was so disordered when she came to my attention that it took thirty-six square metres of rubbish to clear it. In the storage shed, the cockroach faeces were two feet deep. Her medication was slowly strangling her respiration and her ability to breathe. Her staff were not negligent in the ordinary sense. They had been trained to wipe bottoms and to clean. They had not been trained to support, to observe, or to recognise clinical deterioration.

I write for the woman who grew up in an institution, who was raped, and who was expected to be cross-examined as a witness in court while non-verbal.

I write for the woman who burned to death in her chair when the battery caught fire.

I write for the lady who bankrupted three providers in succession, simply because she refused to go to bed.

I write for the young support workers — most of them women, most of them under thirty — who are sent into the homes of dangerous men with no knowledge of their history. Homes the community nurse will not enter alone, and will not enter at all without police backup. But the support worker is sent, alone, and is expected to deliver safety.

Why I am still here

I am writing this submission because the men and women I have named, and the many I have not, cannot. Because most of them are dead. Because the ones still alive cannot reach a Senate committee. Because we have not prepared society. We have not educated society. We are expecting manifestation instead of carefully planned and constructed infrastructure. This is the fault of a poorly designed system.

I have spent more money than I can sensibly account for turning up at every event I could afford, so that a Minister might allow me five minutes. I have knocked on door after door after door, and I have been patronised and dismissed by politician after politician along the way. I am beyond shame. I am beyond embarrassment. There is nothing like disability to get a Minister moving pretty fast in the other direction.

I have done all of this with moral injury, for my own sheer survival, to atone for what I have seen and what I have not been able to stop. I have fought on. I resent the discourse from the fragmented disability community. I resent the exclusion from those who preach inclusion. I resent the dismissal and the patronisation from successive offices. And still I am here, because there is no one else, and because the work is not finished.

That is who I am writing for. That is why I am writing. The Committee should know it before reading anything else.

3. Executive summary

The bill identifies a real problem and answers it with the wrong instrument. It hands the Minister broader powers, narrower review pathways, and harder financial levers, without addressing the structural failures that built the crisis in the first place: poor handover, weak planning competence, an under-professionalised workforce, vague capacity settings, weak health integration, and an administrative machinery that has never seriously reviewed itself.

Five concerns dominate the rest of this submission.

- **First.** The bill formalises functional capacity as a central legal concept without doing the equivalent serious work on mental capacity, judgment, exploitation risk and supported decision-making. Functional performance is not capacity. The scheme is about to get much better at measuring whether someone can perform a task than at understanding whether they can safely run a life.
- **Second.** The bill narrows access to unscheduled reassessments without answering where people go when support arrangements collapse. They will not vanish. They will turn up in hospital, in triage, in police callouts, in guardianship, and in family breakdown. That is not reform. That is cost transfer.
- **Third.** The bill creates a support determination power that lets the Minister cap funding by delegated instrument, even where the result is less than the actual cost of supports the scheme still calls reasonable and necessary. That is executive rationing dressed as administration.
- **Fourth.** The bill permits participant plans to be suspended and participant status revoked after 90 days of "non-contact." This is the most dangerous part of the bill. The cohort being cut off is the cohort least able to pick up the phone.
- **Fifth.** The bill leans hard on penalties and registration while doing almost nothing about the underlying business model. The South Australian Government, with no shareholders and no profit motive, currently spends approximately A$103 million a year of audited public money to support 471 souls through its own direct-provider arm. That is what audited delivery actually costs at the high-intensity end. Capping providers and grounding participants will not change that fact. A different business model will.

The Committee should treat this bill as an opening move, not a settlement. The real reform sits in Part 3 of this submission.

4. What this bill actually does, in plain English

There are people who believe in conspiracy theories. They believe in a "they" — that "they" are controlling us, that "they" run the world, that "they" have a plan for the rest of us. What I have come to understand, after years of knocking on the doors where decisions are supposed to be made, is that there is no "they" at all. We are the "they." The people are the government. We are the only ones who are the "they."

And what I have also come to understand is that, most of the time, the bus we are all on is careering down a steep hill — and no one is driving it. Not only is there no "they." There is, much of the time, no one even at the wheel.

Then — the Minister has the steering wheel back.

That, by itself, is not a bad thing. Ministers should run the schemes the public funds. They are the ones the public can vote out. The Minister has done something this country actually needed someone to do, which is to stand up and put both hands on the wheel of a bus the country has been pretending was steering itself. The Committee should not lose sight of that as it reads the rest of this submission. The criticisms that follow are not criticisms of the act of taking the wheel back. They are criticisms of what the Minister has chosen to do with it once he had it.

With that said, the bill does three things, and most of the noise around it obscures them.

It takes power back from a sector that has been quietly setting its own terms. The lobbyists, peak bodies and twenty-odd familiar names who have advised the scheme for a decade have lost some of their grip on the wheel.

It gives the Minister the legal architecture to cap, narrow and withdraw. The support-determination power, the reassessment-narrowing provisions, and the 90-day suspension and revocation pathway are all forms of the same thing: a way to spend less by allowing the Commonwealth to fund less, review less, and contact people less successfully. None of these powers, on their own, is reform. They are the instruments by which a system in trouble shrinks.

It avoids looking at the machinery that built the problem. The bill reviews everything except the system itself. The NDIA, the NDIS Quality and Safeguards Commission, the planning architecture, the workforce structure, the handover failures, the data quality, the planner competence, the relationship to health, housing, hospitals, police, ambulance services and guardianship. Every one of these is structurally implicated. None of them is being put through the same scrutiny the bill applies to participants and providers.

That is the shape of the bill. It is the Minister, calmly legislating in public, while underneath the surface the legs are going.

I want to be plain about one further point. I support the principle of Ministers reclaiming policy authority from unelected persons — on the basis that we can vote Ministers out, and we cannot vote out the lobbyists, the peak bodies and the twenty-odd familiar names who have been setting the direction of the scheme for a decade. The democratic accountability argument is the right one. But the principle only holds if Ministerial powers come with the safeguards that the alternative absence of accountability cannot supply: a higher disallowance threshold, evidentiary requirements tied to cost, statutory review rights, and a positive bar on revoking participant status by non-contact alone. The bill does not contain those safeguards in adequate form. The recommendations later in this submission set out what would.

And one further observation. The bill is, in its substance, reactive. It is designed to contain the problem without addressing the problem. It tightens the NDIS bucket while leaving everything that overflows from the bucket — into hospitals, ramping bays, mental health units, schools, family living rooms, prisons, police callouts, and homelessness — unaccounted for in any honest costing. When we cost the NDIS, we must cost the actual impact crater, not just the line in the federal budget. The actual cost of disability to society is the sum of what the NDIS pays *plus* what every other sector absorbs in the catching of the system's failures. The bill does not do that accounting. It cannot, because it is structured to look only at the bucket.

5. The bill the Committee should have been handed instead

Here is what a reform bill should contain. The Committee can read it and judge for themselves what the gap looks like.

Mandatory handover

Provider-to-provider handover should be a legislated duty for higher-risk participants. Hospital discharge handover to the receiving provider should be a legislated duty. NDIA sharing of critical risk and care information, where lawful and necessary, should be a legislated duty. None of these exist now in any binding form. Without them, every other safeguard in the bill is theatre.

A Mental Capacity Act

Australia does not have one. Most comparable jurisdictions do. The absence is what allows functional-capacity assessment to be passed off as capacity assessment. A Mental Capacity Act, separately legislated, would give planners, providers, hospitals and courts a shared legal framework for decision-making vulnerability, supported decision-making, financial protection, and the line between presumption of capacity and proper safeguarding.

A Mental Capacity Act would not only serve the disability community. It would serve the rapidly growing population of older Australians living with dementia and cognitive decline — a cohort projected to roughly double over the coming two decades — for whom the present absence of a shared capacity framework is producing the same exploitation and abandonment risks the disability community has been describing for years. Alongside the Mental Capacity Act, the Guardianship and Administration framework — in every State — has been overdue for serious review, particularly in its application to older Australians whose capacity is contested late in life. This is one of the largest legislative gaps in Australian disability and ageing policy. The bill does not touch either.

Workforce professionalisation

A scheme that pays a few dollars an hour above the minimum wage for high-risk personal care, behavioural support and clinical handover work, and then expects the resulting workforce to manage complex risk safely, is not a workforce policy. It is a wage policy pretending to be a safeguarding policy. Professionalisation requires a registered role, a defined scope of practice, a training pathway, a regulator that understands the work, and a wage that reflects what the work actually is. The bill does none of this.

Multidisciplinary onboarding for higher-intensity participants

Plans for higher-intensity participants should be built by a multidisciplinary team — clinical, allied health, lived-experience, planner, family — before the participant is handed to the market. The current approach of using a single planner with limited clinical literacy is one of the dominant causes of unsafe plans, unsafe placements, and unsafe budget structures. The bill does not address this.

Crisis continuity built into every high-intensity plan

Every higher-intensity plan should carry a crisis continuity component from day one, sitting outside the ordinary plan rhythm, accessible when a worker does not turn up, when housing becomes unsafe, when behaviour escalates, when a provider collapses, when a hospital admission ends without a discharge plan. Treating crisis as an exception that requires a reassessment is the reason hospitals are full of people who should not be there.

Default registered plan management as a primary safeguarding measure

Plan management is one of the cheapest, simplest and most under-used safeguards in the scheme. A competent plan manager can tell a participant what is left, whether spending is appropriate, and whether they are drifting toward crisis. There was never a serious case for giving large unsupervised funds, to be spent against an ambiguous code of conduct, directly to people on the basis that they had ticked the self-managed box. That would not be tolerated in any other part of society. Pension recipients do not receive lump-sum control of their pension on the same terms. Veterans do not. Child-support recipients do not. Public-housing tenants do not. Only in the NDIS was it decided that the absence of financial accountability would be called "choice and control."

Default registered plan management for every plan, with self-management available only by exception on a tested basis, is a far more effective fraud-control and budget-discipline measure than the entire penalty architecture in the bill. It would close most of the rorting pathway the Minister himself has now named on the record. It is cheap, it scales, and it can be in place inside twelve months.

Whole-of-life pathways with stable inter-agency cooperation

The NDIS does not exist on its own. It is one node in a network that includes health, housing, education, mental health, justice, child protection, aged care, ambulance, and police. Most of the worst outcomes in the scheme are caused by failures at the boundaries between these systems. A reform bill would compel cooperation at those boundaries. This bill does not.

Self-review of the administrative machinery

The NDIA, the NDIS Quality and Safeguards Commission, and the wider administrative apparatus around the scheme should themselves be subject to public, accountable, structural review on the same scrutiny standard the bill applies to everyone else. Reform that begins by reviewing participants and providers, and ends without ever looking at the machinery, is not reform.

That is the bill the Committee should have been handed. What they have been handed instead is a panic instrument. The gap between the two is the measure of how far the Commonwealth still has to go.

6. Measuring What Matters: the audit the Government will not run on itself

The Commonwealth has formally adopted a wellbeing framework. It is called Measuring What Matters. It sets five themes — Healthy, Secure, Sustainable, Cohesive, Prosperous — across twelve dimensions and fifty indicators. It is the Treasurer's framework, signed off by Cabinet, and published as the Government's own measure of how Australia is doing.

Applied honestly to the cohort the NDIS exists to support, the framework returns a finding the Government will not put in print itself.

Healthy — the cohort is significantly more distressed and significantly less well

People with disability are approximately 3.1 times more likely to experience very high psychological distress on the Kessler 10 scale than people without disability. Avoidable hospitalisations among this cohort run at rates that, on any honest reading, indicate that the primary-care and community-care pathway is not functioning. By the Government's own Healthy theme, this is not a passing concern. It is a structural failure of the system the bill claims to be reforming.

Cohesive — the cohort is significantly more isolated

People with disability are approximately 2.5 times more likely to often feel very lonely than people without disability. Social connection is one of the Government's named Cohesive indicators. The scheme is not delivering it. A reform bill that does not improve social isolation will not improve cohesion. This bill does not improve social isolation.

Secure — housing, safety and continuity are worse for the cohort across every measure

Housing stability, freedom from violence and abuse, and continuity of essential services are all named in the Secure theme. The Disability Royal Commission set out, on a public evidentiary record, that this cohort experiences abuse, neglect, exploitation and unsafe service delivery at rates that the broader population would not tolerate. The Government has the Royal Commission report. The bill does not respond to it.

Prosperous — workforce participation, income and asset accumulation are all worse for the cohort

The cohort is locked out of the labour market at rates that have not materially changed in a decade. Asset accumulation is structurally compromised by scheme rules that make ownership and savings difficult or punishable. The Prosperous theme is the one most directly tied to the social-contract justification for the NDIS, and the cohort the scheme exists to support is on the wrong side of it.

> *By the Government's own framework, the scheme is failing the people it exists to support, on the measures the Government chose. A reform bill that does not improve those numbers is not a reform bill. It is administration of decline.*

7. The 90-day non-contact suspension and revocation pathway

This is the most dangerous provision in the bill, and I am asking the Committee to read this section carefully.

Under the proposed framework, a participant's plan can be suspended where the Agency has made reasonable attempts to contact them and the participant is "not contactable." If the participant does not re-engage within 90 days, participant status can be revoked.

I want to walk through what the Agency does not know about its own participants, on its own published record.

- It does not reliably know which participants are currently alive.
- It does not reliably know which participants are currently in hospital, in palliative care, or in residential aged care.
- It does not reliably know which participants are currently homeless, or sleeping in a car, or in temporary accommodation outside their listed address.
- It does not reliably know which participants are currently in coercive or controlling relationships and cannot pick up the phone safely.
- It does not reliably know which participants have an intellectual disability, an ABI, a psychosocial disability, or a communication impairment that means they cannot respond to a contact attempt without support that may not exist.
- It does not reliably know which participants are recorded against an address, a phone number, or an email that has been wrong on the file for years.

In that information environment, a non-contact suspension followed by revocation after 90 days is not an administrative tidy-up. It is a power to cut off the most vulnerable participants in the cohort because the Agency could not reach them and decided that was their problem.

I will put it plainly. Some people with disability have walked out of their own home unable to cross the road safely, and have been killed by a truck. That is not a thought experiment. It has happened. The bill's answer, applied to that family, would be that the participant became "non-contactable," and their plan was suspended, and then their participant status was revoked after 90 days, because they did not pick up the phone.

That is not a safeguard. That is a failure mode the bill is about to legislate into existence.

Recommendation

The 90-day non-contact pathway must be qualified by:

- a much higher evidentiary threshold before suspension, including mandatory verification of life, location and circumstance;
- mandatory welfare checks through State agencies (police welfare, ambulance, local hospital, last-known provider) before any adverse action;
- mandatory special safeguards for participants with cognitive, psychosocial, or communication impairments, with a presumption of impairment in any case where the disability category triggers it;
- an absolute statutory bar on revocation by non-contact alone — revocation must require a positive finding of fact, not the absence of a returned phone call.

8. Functional capacity is not mental capacity

The bill formalises functional capacity as a central legal concept. I do not oppose the use of functional capacity as one input. I oppose the conflation of functional capacity with mental capacity, which is what the bill, read against the planning architecture, will produce in practice.

Functional capacity describes what a person can do under assessment. Mental capacity describes whether a person can understand, weigh and apply information to a decision, hold the decision against time, recognise consequences, and resist coercion. The two are not the same thing, and the literature is unambiguous on this point.

A person with an intellectual disability may demonstrate strong functional capacity on a structured assessment and still be unable to:

- understand the difference between a registered and an unregistered provider;
- recognise that the person who has befriended them online and is now living in their home is exploiting them;
- maintain a budget across a twelve-month plan period;
- weigh the consequences of cancelling a clinical appointment they do not enjoy;
- exercise "choice and control" in a way that is practically safe for them.

Treating functional-capacity scoring as a sufficient basis for planning, support determination, and reassessment is one of the most consequential legal errors the bill is about to commit. It will deliver assessments that look defensible on paper and produce plans that are unsafe in practice.

What this looks like in practice

Consider the case — and it has happened, more than once, in this country — of an intellectually disabled adult who refuses clinical care that he medically needs, deteriorates over weeks or months, and dies. After he dies, the refusal of care is recorded in the file as an exercise of "choice and control."

That is not choice and control. That is systemic negligence hiding behind ideology.

A person who lacks the mental capacity to weigh the consequences of refusing clinical care cannot, in any honest legal sense, be exercising choice. He is being abandoned to a decision he did not have the capacity to make, by a system that has chosen to treat the presumption of capacity as absolute rather than as a starting point for inquiry. The presumption of capacity exists for a reason. So does the safeguarding obligation that sits beside it. The bill, by elevating functional-capacity scoring without addressing mental capacity, makes this kind of outcome more likely, not less.

Capacity exists as risk

I want to put it plainly. In the absence of a Mental Capacity Act, the existence of "capacity" inside the architecture functions less as a protection and more as a risk. The unexamined presumption of capacity is the open door through which exploitation enters. It is the mechanism by which identity is taken from a participant who could not protect it themselves. It is the loophole through which providers — both unregistered and, sometimes, registered — take ownership of a person's plan, life, and decisions. It is, in effect, leaving the front door unlocked on purpose, and then expressing surprise at what walks in.

What this looks like at the cost of a life

Restrictive practice, applied to a participant whose intellectual disability or psychosocial condition was not properly known to the workforce around them, has cost lives. The absence of that knowledge — usually the absence of mandatory handover — has cost the lives of participants. It has also cost the lives of support workers. The Committee should not consider this in the abstract. There is a public record.

On 27 December 2018, at Glenelg Beach in Adelaide, a 10-year-old non-verbal autistic boy went on a community-access outing with his sole NDIS-funded support worker, Mr Nischal Ghimire. The boy ran into the surf. Mr Ghimire, a Nepalese migrant who could not swim, went in after him and drowned. The boy was found six hours later, wet and naked, by a local resident. Mr Ghimire's body was recovered the next evening. The family had, on the public record, requested a second support worker for outdoor activities in October 2018 — two months before — after disability experts had advised that a single worker was not safe given the boy's tendency to run. The request was not actioned. The family's sole-carer funding was, at the time of Mr Ghimire's death, days from running out. (Source: ABC News, 11 January 2019, citing Member for Badcoe Jayne Stinson and the Intellectual Disability Association of South Australia.)

Eleven years earlier, on 21 November 2007, at Warrandyte on the Yarra River, an intellectually impaired man in his late twenties drowned during a supervised Victorian Department of Human Services outing. He was a resident of a Community Residential Unit. Two staff were supervising four "high functioning" residents on an unplanned afternoon swim. Two investigations followed, including a coronial inquest. Disability advocates at the time pointed to "gross underfunding" and to systemic shortfalls in staff training and excessive turnover. (Source: The Age, 22 November 2007.) That was eighteen years ago. The structural conditions named in that case — under-trained, under-supervised, churn-ridden frontline workforce, asked to manage acute risk without the information or staffing to do it safely — are the same conditions described in the NDS Workforce Census of 2024. Nothing was fixed.

I am not citing these two deaths in isolation. They are representative. They are what happens when the architecture above the workforce decides that the cost of doing it properly is too high, and the workforce is sent in anyway. The bill does not address this. It penalises the workforce that gets caught in it.

Recommendation

Functional-capacity measures must not be treated as a substitute for capacity analysis. Decision-making vulnerability, exploitation risk and supported decision-making need must be recognised in access, planning and reassessment. Complex cases must require multidisciplinary and clinical input. And the Commonwealth should commence work on a Mental Capacity Act, separately legislated, to give the scheme — and every other Commonwealth program that depends on capacity — a shared legal framework.

9. The two-fold safeguarding failure the bill leaves untouched

I have lived this. I will be direct about it.

The single greatest safeguarding risk inside the scheme is not registration coverage, and it is not fraud. It is two-fold, and the bill addresses neither half of it.

The first failure: the State has refused to integrate disability inclusion across its own systems, and has dumped what it can into the NDIS bucket

The State governments have, with varying degrees of enthusiasm, declined to integrate disability inclusion into the systems they themselves run — health, hospitals, primary care, mental health, housing, justice, child protection, education. The State response, repeatedly, has been to dump everything it can into the NDIS bucket and call it Commonwealth responsibility.

The audit-grade evidence of how badly that strategy is performing was set out earlier in this submission. In 2024-25, the South Australian Government invoiced the NDIS for approximately A$133 million in disability-support revenue, and still wore an audited net result of negative A$951 million on Program 4 — the line in the State accounts that carries the disability function. The State is dumping what it can into the NDIS bucket and still losing nearly a billion dollars a year on the function. That tells the Committee something important. The bucket-dumping strategy is not even working for the State. The structural problem is not who pays. The structural problem is the business model.

Every dollar of audited deficit on Program 4 is a dollar of disability cost that did not get integrated into the State systems where it belongs — into accessible primary care, into hospital discharge planning, into mainstream mental health, into housing that does not require an NDIS plan to be safe. The bill in front of the Committee does nothing to correct this. It tightens the NDIS bucket while leaving the dumping strategy untouched.

The second failure: the administrative trinity

The disability administrative trinity — the NDIA, the NDIS Quality and Safeguards Commission, and the wider machinery of Commonwealth and State agencies that sit alongside them — is a cacophony of incompetence and a lack of cohesion.

They are three blindfolded men at different corners of an elephant, each trying to describe what is in front of them, none of them having ever met or known what an elephant looks like. One feels a leg and reports a tree. One feels the trunk and reports a snake. One feels the ear and reports a sail. None of them is wrong about the part they can touch. All of them are wrong about the animal. And — dare I say it — even if the blindfolds came off, the architecture lacks the courage to address what is in front of it. Assuming, of course, it would recognise an elephant at all.

That is the architecture inside which support workers, providers, families and participants are asked to make life-and-death decisions every day. The NDIA does not share what it knows with providers. Quality and Safeguards does not share what it knows with the NDIA. The State agencies do not share what they know with either. Hospitals discharge without handover. Providers risk-manage without information. Families fill the gap and then get blamed when the gap is too large to fill.

In a workforce that is already too often under-qualified, padded out by pseudo-professionals working from subjectivity rather than evidence, the absence of mandatory handover is not a minor technical flaw. It is a structural safety failure. It is the single largest reason participants drift into hospitals, into police callouts, into unsafe placements, and into the worst outcomes the scheme produces.

I want to add one observation. If the architecture does not hand over the critical information on which provider risk-management and plan accountability depend, then the architecture has no framework on which to hold providers accountable for the outcomes that follow. One can be forgiven for thinking that the lack of handover is deliberate — that the architecture is content to keep providers in the dark in the hope of keeping plan sizes down. I would never openly be that cynical. But the question deserves to sit in front of the Committee, because the audit-grade pattern of behaviour is consistent with it.

Penalties on a sector that has been deliberately kept incompetent

The bill's answer to all of this is to expand registration, increase penalties, and tighten enforcement. The administrative trinity congratulates itself on instigating these penalties against a sector that the trinity itself knows lacks the competence, capacity and resilience to absorb them.

A workforce that has been kept on poverty wages, denied training pathways, denied a registered scope of practice, denied clinical supervision, denied mandatory handover, and denied the information needed to do the work safely, is now to be policed by a regulator that is itself failing the seven building blocks of a high-integrity program. The architecture is congratulating itself for punishing a sector it has spent a decade structurally disabling.

That is not regulation. That is regulatory cosplay.

Decide what this sector is

On 18 February 2026, the South Australian Premier described the care workforce, at a CEDA event in Adelaide, in terms of who is going to "feed you and bathe you and wipe your bum when you are 90." On 22 April 2026, the federal Minister, at the National Press Club, characterised the same workforce as people who scroll on their phones while participants fall out of wheelchairs. These are not throwaway lines. These are senior elected officials, on the public record, describing the workforce that holds the lives of half a million Australians in its hands.

How dare the same architecture that talks about its own workforce in those terms now bring in some of the largest penalties this sector has ever seen, and congratulate itself for doing so? How dare a regulator bring punitive force against a workforce that the political class it works for refers to publicly as "bum wipers"? Decide what this sector is. Decide whether the people inside it are responsible adults doing safety-critical work, or whether they are the punch-line of an immigration speech. You do not get to have it both ways.

I think we are responsible. I think the workforce is responsible. I think the providers still holding on are responsible. I think the families filling the structural gaps are responsible. I think the participants navigating a system designed against them are responsible. And I think the government is responsible too. This is a partnership. It is a collaboration. But it requires the architecture to behave as if it actually believes the people inside the sector matter — not just on the days when penalties are being announced.

Recommendation

A reform package that takes safeguarding seriously must include all of the following:

- Mandatory provider-to-provider, hospital-to-provider, and NDIA-to-provider handover, legislated as a primary obligation.
- A genuine inter-agency cooperation framework that compels the State systems — health, housing, mental health, education, justice — to integrate disability inclusion rather than dump cases into the NDIS bucket.
- Structural review of the NDIA, the NDIS Quality and Safeguards Commission, and the wider administrative machinery, against the same scrutiny standard the bill applies to participants and providers.
- Mandatory Working With Children Checks and security clearance for every support worker. Mandatory first-aid certification for any worker placed with a child or higher-risk participant. The Royal Commission record makes this not optional. After the Royal Commission, no reasonable person can defend the absence of these basic minimums.
- A registered scope of practice and a defined training pathway for the support workforce, with wage rates that reflect what the work actually is. You cannot ask a workforce to deliver clinical-adjacent care on a code of conduct that is, on the published record, ambiguous, and then prosecute them when it goes wrong.

10. The support determination power

The support determination power is the part of the bill where the Committee should slow down and read the explanatory memorandum twice.

The power allows the Minister, by legislative instrument, to set a maximum amount of funding, a maximum intensity, or a maximum worker-to-participant ratio for specified supports — and the bill is explicit that the resulting cap can operate even where the funding is less than the actual cost of the supports the scheme still regards as reasonable and necessary.

Translated into plain English: the bill creates a mechanism by which the Commonwealth can fund less than what the scheme itself agrees a participant needs. That is not planning. That is rationing by delegated instrument, with the rationing rate set by political and fiscal pressure rather than by need.

I want to be precise about why this matters. A competent minister now does not guarantee a competent minister later. Broad powers, once legislated, are inherited. The next minister, and the one after that, will hold a power that allows them to reduce supports for groups of participants without primary legislation, without parliamentary scrutiny, and without an evidentiary threshold tied to the actual cost of the supports being capped.

Recommendation

The support determination power should be narrowed. Any instrument setting a maximum amount, intensity or ratio should be subject to a higher disallowance threshold, an evidentiary requirement tied to the cost of the supports being capped, and a statutory review right for affected participants. Substantive matters affecting access, support levels and participant rights should remain in primary legislation wherever possible.

11. The providers are falling. The State's own audited figures say why.

National Disability Services provider surveys show approximately 30 to 40 per cent of providers operating at a loss in recent reporting cycles. Bedford Industries, one of the largest disability employers in South Australia, was bailed out by the State Government across 2024 and 2025 to keep its doors open. Provider exits across the sector are accelerating. The thin-market problem is not a future concern. It is here.

To the providers still holding on, I want to offer some comfort, drawn from the audited Treasury accounts of the South Australian Department of Human Services. Read this slowly. It is the audit story behind the entire reform debate.

The simplest version of the story

The South Australian Government runs its own disability service arm. The State is itself a registered NDIS provider. As such, it bills the NDIS for the supports it delivers to the participants it retains directly — approximately 471 of them. It is what the State invoices the scheme as a provider, and it is what the State actually spends to deliver care, that the Committee needs to look at side by side.

> *In 2024-25, the State of South Australia, as a registered NDIS provider, billed the NDIS approximately A$103 million for serving those 471 participants. It cost the State approximately A$900 million to actually deliver the care. The audited net result on Program 4 — the line in the State accounts that carries the disability function — was negative A$951 million. The State, as a provider, billed one hundred million. As a deliverer of actual care, it spent nearly nine hundred million. The deficit is the audit story behind the entire reform debate.*

Those figures are not advocacy numbers. They are not CANDA numbers. They are the State Treasury's own audited record. Sources are set out below.

- **NDIS revenue billed by the State as a registered provider (2024-25):** approximately A$103 million. Drawn from DHS Annual Report 2024-25, Note 3.5 (Sales of Goods and Services), with the line "Provision of disability support services" recording gross NDIS revenue at A$133.327 million; the working figure of approximately A$103 million reflects the net of NDIS-attributable revenue once internal transfers and offsetting Program 4 income items are removed.
- **State expenditure on actually delivering disability supports:** approximately A$1.117 billion in total Program 4 expenses (2024-25), of which approximately A$900 million is attributable to the direct-provider line for the cohort retained by the State. DHS Annual Report 2024-25, Note 1.2, Program 4 Disability.
- **Audited net result on Program 4:** negative A$951 million for the financial year. Same source, Note 1.2.

- **Audit cross-reference:** Auditor-General's Department, South Australia, Report 9 of 2024, Annual Report, Part C, Agency Audit Reports, Department of Human Services section, pp 252 to 258.

Why the State retained the cohort in the first place

The standard sector narrative is that the South Australian Government retained the 471 participants because "the market would not absorb them." That is not what the 2017 South Australian Productivity Commission report actually found. The Productivity Commission found that the State Government, in its considered view at the time of the NDIS rollout, believed that the private market lacked the operational capacity or the technical competency to provide care to that cohort safely. The State concluded that it could do the work better than the private sector — and on that basis chose to retain the cohort under direct provision.

Two things follow from that, which are worth holding side-by-side. The first is that the State itself, when hiring its own workforce to do this work, does not require the operational capacity or competency it judged the private market did not possess. The State hires on the same labour-market terms as everyone else and does on-the-job training. The second is that the State knew, before it retained the cohort, what the NDIS pricing structure would pay for serving them, and chose to retain them anyway. The audited deficit that has resulted is therefore not a surprise. It is the consequence of a deliberate choice made on the basis of a judgment about capacity and competency.

I do not believe this is solely a cost issue. It is a process issue. It is a business-model issue. It is a competency and efficiency issue. Most of us would, frankly, be surprised these days if the government could successfully run a chook raffle. The State took on a delivery responsibility because it believed it could deliver better than the private market, and the resulting audited deficit suggests that on the present operating model, the State cannot deliver this cohort efficiently any more than the private market can. That is not a verdict on the dedication or the goodwill of the public servants doing the work. It is a verdict on the model.

What audited delivery actually costs at the high-intensity end

On a per-participant basis, the State is wearing approximately **A$1.7 million per participant per year** of audited net cost for the 471-person cohort it retains — A$103 million in NDIS revenue billed against approximately A$900 million in actual delivery cost, distributed across 471 participants. That is what audited delivery at the high-intensity end looks like when no margin is required and no profit is sought. The market has been quietly told for years to absorb that cost on a margin that nobody in Treasury would accept. It cannot.

The wider Program 4 deficit of approximately A$951 million is the audit-grade scale of the gap between what the disability function actually costs to operate and what the existing scheme architecture is set up to pay for it. To put it in plain language: one State, in one financial year, is losing nearly a billion dollars on the disability function, after every dollar of NDIS revenue has been collected. The Commonwealth and the

State have spent a decade quietly arguing over who absorbs that gap. Neither has fixed it. The bill in front of the Committee does not fix it either. It transfers more of the gap onto participants and providers.

And I will say this plainly. I would eat my hat if there were not also a substantial unfunded reality gap sitting underneath that audited number — unpaid family carer hours, unpaid family advocacy time, unpaid worker overtime, unpaid coordination work — that the State accounts do not capture at all. The A$951 million is what the State Treasury has counted. The real number is larger. It is being absorbed quietly by families and by workers who have been told to manage it on their own time.

The actual cost of disability, and the SROI question

There is a further point the Committee needs to hold in front of it before accepting any of the existing return-on-investment figures for the NDIS at face value. Industry estimates that the scheme produces approximately A$2.50 of social and economic value for every dollar of NDIS expenditure are now widely quoted in advocacy material. Those figures do not account for the actual cost of disability to society. They count what the NDIS pays. They do not count what every other sector absorbs when the NDIS fails — emergency departments operating as crisis disability care, hospitals ramping ambulances because participants cannot be placed safely, schools absorbing unsupported developmental need, justice and police catching crises that should never have escalated, child protection responding to family breakdown caused by carer exhaustion. Until the actual impact crater is properly costed and properly netted, the A$2.50-per-dollar figure is incomplete. The Committee should treat it as such.

The bill's answer to this reality is to give the Minister more power to cap supports by delegated instrument, to ground participants tighter, and to penalise providers harder. That is not a reform of the business model. That is the Minister attempting to make the existing business model work by force, while one State alone is already wearing nearly a billion dollars a year of audited deficit on the function.

Based on these numbers, the scheme does not need a few extra dollars an hour and a regime of grounded participants. It needs a different business model. To find one, Ministers may even need to speak to someone other than the same twenty-odd familiar names who have advised them so well thus far.

Perhaps it is time for a round of musical chairs. With a few new players. And possibly, while the music is stopped, with a few of the old chairs removed altogether.

12. Welcome to the NDIS twilight zone

Welcome to the NDIS twilight zone — the land of magical thinking, where cognitive dissonance is delivered in abundance, and the magical thinking itself is airborne.

Earlier this year, the Minister stood up and said, in proper Commonwealth language, that the NDIS has every one of the eight design failures the Fraud Fusion Taskforce identified across long-standing government programs, and none of the seven building blocks of a high-integrity program.

Thank you, Captain Obvious. Better late than never, I suppose.

I put it like this on a podcast a while back.

> *They didn't know what they didn't know, and they didn't know that they didn't know it, and those who did know didn't know they knew, and were too scared of being cancelled anyway to tell the others.*

Well. It seems it is now official. We now know.

The question is no longer whether the scheme is broken. The Minister has said so on the record. The question is whether this bill fixes it. On the evidence of the bill itself, the answer is no. The bill is what panic looks like when it has access to drafting counsel.

A scheme that has been told by its own Minister that it is missing every one of the seven building blocks of a high-integrity program does not need its participants to be more contactable. It needs to build the seven building blocks. The bill does not do that.

13. A scheme for people with disability that is not accessible, and that disables its workers

I want to name the final irony of the architecture before the recommendations.

The National Disability Insurance Scheme is, by any honest reading of its own published data, not accessible to a meaningful proportion of the people it exists to support. The application pathway is too complex. The appeals architecture is too legalistic. The technology is too unfriendly. The language is too dense. The agency interfaces are too rigid. The supports themselves, for many participants, are too inflexible to fit a life as the participant actually lives it.

At the other end, the scheme actively disables the people who work in it.

On 22 April 2026, at the National Press Club, the Minister observed that "too many participants tell us their support workers are spending more time on their phones than engaging with them and providing support," and that the Agency has received reports of "participants falling out of their wheelchair while a support worker is scrolling on their phone."

The Minister observed that the workforce was on its phones. The Minister did not, in that speech, say that the workforce was burnt out. That diagnosis comes from a different source — the workforce's own data. The **NDS Workforce Census 2024** records sector turnover of approximately 24 per cent and permanent staff turnover of approximately 16 per cent — the highest in the history of the survey — representing the churn of roughly 16,500 employees leaving their roles in a single year against approximately 19,000 new appointments. The Behaviour and Economic Insights team (BETA) found that 43 per cent of disability-sector workers reported feeling burnt out at least half of the time in their jobs. The NDS **State of the Disability Sector Report 2024** describes a workforce that has reached entrenched dysfunction. The audit-grade scale of that burnout is approximately **A$300 million per year in direct WorkCover cost across the SCHADS-sector workforce**, with materially larger indirect cost across churn, replacement labour, downstream participant safety, and moral injury. SafeWork Australia and the State workers-compensation schemes carry the underlying data. The SCHADS-sector injury rate sits well above the all-industries average and has done so for years. The workforce is not burnt out because it has stopped caring. It is burnt out because the system it works inside has been quietly running it into the ground at industrial scale.

A Minister who notices that support workers are on their phones, and stops his analysis there, has noticed the symptom and walked past the cause. The cause is that the workforce has been asked, for over a decade, to deliver the most complex personal care work in the country on poverty wages, without proper handover, without proper training pathways, without a registered scope of practice, without clinical supervision, and without the information required to do the work safely. They lift, feed, bathe, medicate, de-escalate, and keep alive a cohort the private market would not absorb. The A$300 million annual WorkCover bill is what happens to a workforce that has been asked to do that work under those conditions.

A participant fell out of their wheelchair while a worker was on their phone. The Minister named the moment. The bill in front of the Committee does not legislate handover, does not legislate clinical supervision, does not legislate a training pathway, does not legislate a registered scope of practice, and does not legislate the wage rates that would let providers staff shifts properly. The participant in that wheelchair is owed the structural answer. The bill does not provide one.

A scheme for people with disability, that is not accessible to people with disability, and that costs A$300 million a year to keep injuring the people who work in it, is not a scheme. It is an outcome. The bill does nothing to interrupt that outcome.

- **Sources for the A$300 million figure:** SafeWork Australia industry comparison data on the Health Care and Social Assistance sector, and the State workers-compensation schemes covering SCHADS-classification workers. Aggregated direct claim cost approximately A$0.3 billion per year, with materially larger indirect cost across the sector. Also referenced in Part 21 of the CANDA Master Business Case (Harmful Externalities — Negative SROI, line 8: SCHADS sector WorkCover and injury cost).

14. An honest word to the disability community itself

I will not finish this submission without saying something to my own community, because if I do not, I am not telling the Committee the truth about why we are where we are.

Some voices within the disability advocacy community have, for years, actively resisted provider registration. They have actively resisted workforce professionalisation. They have actively resisted the introduction of training pathways, registered scope of practice, and the basic competence framework that any other safety-critical sector takes for granted. They have done this in the name of choice and control. They have framed it as a fight against paternalism. They have presented it as an advocacy victory. The Royal Commission record sits beside that position. The two do not reconcile.

The plumber test

When I choose my own plumber, I am choosing between plumbers. I know — because the State has built the structure that ensures it — that every plumber I am choosing between is a qualified plumber. I do not get to hire Steve from next door because Steve is convenient for me and call that choice and control. I do not get to corrupt the licensing system for my own circumstance. And I certainly do not get to advocate, on the basis of my own experience with Steve, for the dismantling of plumbing licensure for the entire country.

That is not advising with lived experience. That is using a position of advocacy to dictate policy on terms that suit a few, while leaving the most vulnerable participants — the ones without the capacity, the family support, or the networks to assess provider quality themselves — exposed to whoever turns up at the door.

I want to be precise. I am not arguing against self-direction. I am not arguing against participant agency. I am not arguing for paternalism. I am arguing that the structural minimums every other sector takes for granted — workforce qualification, registered scope of practice, clearances, supervision — are not a violation of choice and control. They are the precondition for choice and control being meaningful. A choice between unqualified providers is not a choice. It is a lottery.

And I can guarantee the Committee this: still today, the majority of participants and families do not understand the difference between a registered and an unregistered provider, in safeguarding terms. The community has never been given a plain-language explanation of what that choice actually means. That gap has not been preserved by accident. It has been preserved by people who knew better.

What this has cost

To be clear-eyed about what the absence of structural minimums has produced, the Committee should hold three things in mind at the same time.

- The A$300 million annual WorkCover bill across the SCHADS-sector workforce, as referenced earlier in this submission. That is the audit-grade cost of running a safety-critical workforce without the protections that workforce should have had a decade ago.
- The exploitation of participants by unregistered actors operating under the cover of the choice-and-control framing. The Royal Commission record documents this in detail. It is not a hypothetical.
- The active involvement of organised crime, including human trafficking, cash kickbacks to participants and their families, and intimidation of vulnerable people. The Minister himself referenced the Australian Criminal Intelligence Commission findings on this at the National Press Club on 22 April 2026.

A scheme that began as a human-rights instrument now hosts human trafficking inside its provider market. That sentence should not be possible to write about an Australian social program. It is. The position of resisting registration and professionalisation — taken in the name of human rights — has materially contributed to that outcome.

What I want to ask the community

> *After everything the Disability Royal Commission documented, who, in any reasonable world, would forsake the right to expect that every worker entering the home of a person with disability has, at minimum, a Working With Children Check, a security clearance appropriate to the cohort, and a current first-aid certificate? Who could read the Royal Commission record and decide that the absence of those minimums was a price worth paying for an ideological position?*

I cannot respect that position. I will not pretend to.

Hand on heart

The disability community is not united. It is diverse. That is its strength, and it has also been its weakness. We have been adversarial. We have at times been toxic. We have sometimes treated the support workforce — the workforce that holds the lives of half a million Australians in its hands every day — with the kind of contempt the Minister was rightly criticised for. I am asking, hand on heart, that we stop.

There are tireless advocates in this community. There are support workers working themselves into the ground. There are providers sacrificing their own livelihoods to do what is right. There are families who have given everything. We cannot win against malfeasance by ourselves. We cannot win against the populist trimming agenda — the "times are tight, let us cut the NDIS narrative" agenda — by ourselves. We can only win against either of those things by being united on the things that matter: workforce qualification, mandatory handover, structural safeguarding, honest financial discipline, and the right of every person with disability to live a life shaped by their own goals rather than absorbed by bureaucracy, fear, and disillusionment.

I am asking the powerful advocates in this community — the ones whose voices reach Ministers and parliamentary committees — to back the support workforce that supports the community they speak for. To back the right of every worker to know what they are walking into. To back registration. To back qualification. To back the Royal Commission's safeguarding record. To support inclusion as an equal member of the wider community, with the same minimum protections any other Australian receiving care from a stranger in their own home would expect.

I am asking us — all of us, hand on heart — to put the people we say we represent ahead of the position we have taken.

The answer is really simple

> *The answer is really simple. Bring back common sense. Why did we throw the baby out with the bathwater?*

Every other sector in this country, when it deals with vulnerable people, has worked out that competence, qualification, supervision, and clearances are the floor — not the ceiling, the floor — of what is acceptable. We threw that floor out for the disability sector, and we did it in the name of liberation. The result is a A$300 million WorkCover bill, a Royal Commission record, organised crime operating inside the scheme, a workforce whose own peak body now records the highest turnover and burnout rates in its survey history, and a Minister now publicly observing that workers are on their phones while participants fall out of wheelchairs. The result is what happens when you throw the floor away.

Bring back common sense. That is not a retreat from rights. It is the precondition for them.

15. What legislation can do, and what it cannot

Before I turn to what we are responsible for, I want to be clear about what legislation is actually capable of, because this bill is, in places, asking it to do things it cannot do.

> *You cannot legislate disability away. You can legislate the supports that meet disability where it actually is. You can legislate a fair go — equal opportunity, equal standing, equal expectation. That is what legislation is for. The bill in front of the Committee, in too many places, is attempting the first when it should be attempting the second.*

Disability is real. It is unrelenting. It is ever-present. It will not be capped by a delegated instrument. It will not be redirected by a tightened reassessment window. It will not be revoked because a participant did not pick up the phone. Disability remains, regardless of how the architecture above it chooses to count it. The only thing that changes when the architecture tightens is who absorbs the cost, and the answer is always the same people: the participant, the family, and the workforce at the bottom of the ladder.

We support disability as it actually is — not as the system would prefer it to be, and not as the system would find it more convenient to be. That is the bedrock of every reform that has ever worked anywhere.

Show me the incentive and I will show you the outcome

Charlie Munger said it, and the Freakonomics economists have spent twenty years proving it. The current NDIS architecture is a near-perfect demonstration of the principle. The Commonwealth has paid a great deal of money to design an incentive structure that produces, on its own published record:

- Providers that cut corners on workforce competence because the pricing model does not reward competence.
- A workforce that churns at industrial scale because the wage structure does not reward retention.
- Plans that are designed around what is fundable rather than what is needed because the planning system rewards fundability.
- Reassessments that increase plan value 20 per cent on average because plan managers gain from the increase and participants are not penalised for it.
- Unregistered providers entering the market the way snake-oil sellers entered every gold rush in history, because the registration architecture does not stop them.
- Organised crime operating inside the scheme, paying cash kickbacks to participants and families, because the payments architecture has no visibility of 90 per cent of claims.

Every one of those outcomes is the rational response of a rational actor to the incentive structure the Commonwealth itself has set. The bill in front of the Committee does not redesign that incentive structure.

It penalises the outcomes the incentive structure produces. That is not reform. That is paying for a problem twice.

On the question of whether to regulate

Some voices in the sector continue to argue against regulation. I have written elsewhere about why that position no longer holds. For the Committee, the short version is this.

Regulations are generally a response to something that already happened. Many of them save lives. Seat belts save lives. Road rules save lives. Medical practice standards save lives. Standards on the storage of pharmaceuticals save lives. Standards on electrical work save lives. Some regulations save lives in the obvious way and some save them in the slow, statistical, unglamorous way that means you never know which life was saved because the regulation prevented the death that would have made the news.

Some regulations, plainly, do not save lives. The Darwin Awards, awarded each year to the people whose lack of common sense or simple bad luck has produced an unusually inventive end, illustrate the upper bound of what regulation cannot fix. There is, for example, the man who decided to use a .22 calibre bullet to substitute for a blown fuse in his car. The engine heated up. He was unable to have children. No regulation in any reasonable jurisdiction would have prevented him from doing what he did. We accept that some absurdity is the price of a free society. We do not, from that observation, conclude that we should stop having medical practice standards because some regulations also exist about chickens crossing roads.

The argument inside the disability sector against regulation has, in too many quarters, drifted into exactly that fallacy. Pointing to absurd regulation as a reason against sensible regulation is not an argument. It is a deflection. The Royal Commission record makes the case for sensible regulation. The provider collapses make the case. The exploitation cases make the case. The Nischal Ghimire case at Glenelg makes the case. The Bundoora Yarra River drowning makes the case, eighteen years before this submission was written.

I will add a further observation, because it bears directly on a structural error inside the NDIS that the wider regulatory environment in Australia would not tolerate. The disability sector's prevailing viewpoints, in too many places, neglect the legislation that exists in every other part of Australian society — most importantly, occupational health and safety law. Where are the lifting weight limits in most NDIS Functional Capacity Assessments? Where is the assessment of safe manual-handling load? Where is the disclosure of the participant's actual weight, mobility, and behavioural risk, alongside the workforce skill required to deliver the support safely? In any other industry — construction, nursing, aged care, manufacturing — those data are mandatory and disclosed by default. In the NDIS they are routinely absent. The consequence is a workforce being asked to deliver intimate care to participants whose weights and risks they cannot lawfully be told, in a sector that simultaneously expects them to comply with workplace safety law that requires them to know.

It is not plausible to argue in one breath that the State should not live in our homes, and in the next breath to demand the State fund our NDIS, build our roads, school our children, staff our hospitals, and turn up when we call an ambulance. The State already lives in our homes through every one of those regulations. The NDIS exists because the State agreed to live in our homes in this particular way. Refusing the safeguarding regulation that comes with that agreement is not choice and control. It is asking for the benefit of the social contract without the obligation.

I have seen support staff sent out with home-detention tags on for category A drug offences. I have seen workers unable to read the days of the week on a Webster pack. I have seen polypharmacy and over-medication with Schedule 8 drugs. I have seen a participant's own car driven by a worker with no licence. I have seen a worker turn up to a shift with their cat. I have seen a man spend ten minutes quacking like a duck in a bathroom because he had been sent to find the toilet duck. These are not punchlines. These are real working conditions for real participants. The absence of regulation has not produced freedom. It has produced this.

Registration that works for the sector, not against it

I want to be clear about what good registration looks like. It does not hobble the providers carrying the sector — the small, innovative, frontline-led organisations that have absorbed every structural failure described in this submission and kept going. It does not crush them with administrative cost. It does not duplicate reporting across the NDIA, the Quality and Safeguards Commission, and the State regulators. It does not assume that paperwork is a substitute for practice. Registration done badly will accelerate the provider collapses that are already happening. Registration done well will raise the floor under workforce competence, give participants meaningful information on what they are choosing, and protect workers from being sent into harm.

The sector has been innovative and resourceful for a decade, often in spite of the architecture above it rather than because of it. This is the moment in which the disability community, the workforce, and the providers can show what they are made of — not as supplicants, but as the people best placed to design the structural minimums that should have existed from day one. The Committee should make space for that, not foreclose it.

The horse has bolted

Registration is now a fait accompli. The Disability Royal Commission ran for almost A$600 million. The NDIS Review ran for a year with a serious team. The Minister has spoken. The Treasury figures are public. The Auditor-General has reported. The horse has well and truly bolted. The choice in front of the sector is no longer whether registration will happen. The choice is what registration will look like when it does.

The Committee's job is to ensure that when registration arrives, it arrives in a form that is fit for purpose: that it raises the floor on workforce competence without crushing the small, innovative, and frontline-led providers who have carried this sector for a decade; that it preserves participant agency without using "choice and control" as cover for keeping the unqualified worker in the dangerous home; and that it makes the structural minimums available to every participant, not only to those whose advocates have a louder voice.

And then a word about what legislation cannot do

Legislation cannot manufacture culture. It can shape the environment in which culture forms. It can set the minimums. It can name the limits. It can build the architecture inside which trust is possible. But the trust itself, the practice itself, the daily showing-up itself — that is not legislatable. That has to be done by the people in the sector, for the people in the sector, with the people the sector exists to support.

> *Ultimately, this is not actually about regulation. It is about culture. Culture cannot be regulated, however hard legislation tries. Culture is a choice. That is the choice in front of all of us.*

That is the bridge into what we are responsible for, which is the next section of this submission.

16. What we are responsible for, and what we are asking of you in return

I want to say something before the recommendations, because the recommendations will not work without it.

I was once told by a profoundly disabled person that I was privileged. Because I could wipe my own bottom. He was right. And perhaps, in this country, it is a further privilege to be in the position of arguing about thermomixes and trampolines, when in so many countries people with disability simply do not survive. There are NDIS plans in this country whose total lifetime expenditure exceeds A$50 million, and in rare cases approaches or exceeds A$100 million, for participants whose lives — left to the unfunded reality of most other places — would have ended decades earlier. That is what we have built. We should be honest about it before we negotiate over it.

We are part of a community that is suffering

The cost-of-living crisis means working Australians cannot afford a home. People are living in cars. People are going without meals. Many of those people are themselves disabled — the other 90 per cent who never made it onto the NDIS, who disappeared from the public conversation the moment the scheme spawned. The over-65s, whose shoulders we happily stood on to even have the NDIS, were discarded by the same architecture that elevated us. The wellbeing of the community we live inside affects the wellbeing and the viability of our own. We fought to be included into that community. We do not now get to behave as if we are exempt from its difficulties.

What is and is not feasible

It is not feasible for every participant on the NDIS to have a house. It is not feasible for every shift to be half an hour. Where work is done, the award wage must be paid — whether the work is done for a private provider, a government provider, or a self-managed participant. That is not an unreasonable position. That is the law. The current business model is not tenable. It just is not. The audited figures elsewhere in this submission show why.

We can legislate equality. We cannot legislate equity. And — speaking as a participant and as the parent of four participants — we do not want them to. Equity legislated by government is paternalism returning under another name. We do not want token anything. We can do. We just need the opportunity. The opportunity is the purpose of the NDIS. The Commonwealth's job is to facilitate the environment in which that opportunity exists. It is not to manufacture outcomes for us. It cannot, and it should not try.

Thriving Kids must serve all the kids

The Thriving Kids reform is the next test of whether this country has learned anything. If Thriving Kids is allowed to become merely the spawn of the NDIS — funded thinly, scoped narrowly, available only to the small minority who can navigate access — it will produce the same two-tier outcome the NDIS itself produced. A small group inside the scheme. A vastly larger group of children outside it, with developmental delay, with mental-health distress, with educational disadvantage, with no foundational support architecture worth the name.

Australian children with disability and developmental difference are, on the published record, significantly more likely to experience high psychological distress, materially less likely to complete Year 12, and materially less likely to participate in post-school education and training than their peers without disability. The Productivity Commission and the NDIS Review both identified that the absence of foundational supports outside the scheme is one of the largest causal factors. If Thriving Kids does not sit across every school, available to every child who needs it, it will fail those children the same way the deinstitutionalisation of the disabled failed the over-65s.

Universal access. Foundational, not boutique. Inside every school. And — because the cost-of-living crisis is now driving childhood food insecurity and mental-health pressure at rates this country has not seen in two generations — Thriving Kids should incorporate health and nutrition supports as part of its design from day one. A child who arrives at school hungry, distressed, and without the developmental scaffolding to succeed is the same child the system will fail again at 18, 28, and 48 if we do not put the foundation in now. The Productivity Commission and the AIHW data on childhood poverty, mental-health distress and educational disadvantage make the case for this beyond serious dispute. That is the test of whether the reform agenda is real.

A direct ask to the States and Territories

I want to put one further request directly to the Premiers of every State and to the Chief Ministers of the Territories.

Each one of you should appoint a dedicated NDIS liaison Minister inside your own Cabinet. Each one of you should stop deflecting your constituents — when they call your offices about ramping, about hospital discharge failures, about housing insecurity tied to disability, about schools that cannot support a child, about a parent in crisis — with the line "that's a federal matter." It is not solely a federal matter. It is, by the audited Treasury figures of your own departments, a State matter. You are wearing the deficit. You are absorbing the failure. You are the level of government closest to the participant and closest to the workforce, and you have the most to lose if Thriving Kids and the broader reform agenda is allowed to fail.

Get to the front and centre of Thriving Kids design. Get to the front and centre of inter-agency cooperation. Get to the front and centre of foundational supports. If you wish to ever fix ramping — and every State Premier in this country has now publicly conceded that ramping is unsustainable — you cannot afford not to. The wellbeing of the disability community inside your State is inseparable from the wellbeing of every other community inside your State, because the same hospitals, schools, ambulances, police, and family living rooms catch every system failure regardless of which level of government nominally owns the budget line.

Rebalancing inside the scheme

I will also say plainly that the scheme as currently weighted does not serve the whole disability community. It is weighted, by plan size and by political voice, far too heavily toward physical disability. The realities and the basic needs of participants with intellectual disability, psychosocial disability, communication disability, and developmental difference are systematically under-met. This is not a criticism of anyone with a physical disability who has received what they needed. It is an observation that the rigid ideological framing of the current advocacy environment has weaponised disability against itself. It is excluding, in great number, the very participants the scheme was designed to support. The Committee should be honest about that, because the bill in front of you does nothing to correct it.

You first

Now. Despite the respect and gratitude I hold for those who serve us — the Ministers, the Senators, the public servants who go to work and try, even on the days when they are tired — and despite my full recognition that fixing this is a joint task in which we all have a part to play, I will be direct.

> *You first. You cut your ranks. You cut your costs. You seek efficiency of your being first. Then you ask the rest of us to tighten our belts when you have diligently tightened your own. We will live efficiently. But you must serve efficiently. We will audit. We will scrutinise. We will be accountable. But so must you be.*

That is the price of the partnership. The administrative trinity does not get to lecture the rest of us about discipline while declining to apply the same standard to itself. The scheme cannot fairly demand of the workforce, the providers, the families and the participants what its own architecture is not willing to demand of itself. If the bill is going to legislate accountability, it must legislate it in all directions, or it does not legislate accountability at all. It legislates inequality.

We are in freefall trying to build a plane

We are, all of us, in direct freefall, moving into a flat spin, and we had all better hope like hell that we are indeed building a plane. The mystery box framing in Part 1 of this submission was not a joke. It was an accurate description of where the scheme currently is. The bill in front of the Committee is not the plane. It is more pieces of the mystery box, dropped into the box while it falls. The plane is what comes after the bill — if we are honest, if we are accountable in both directions, if we serve the whole community we fought to be included into, and if we are brave enough to be the people who put dignity, love and compassion back into the system, into each other, and into ourselves.

17. Recommendations to the Committee

The Committee should recommend that the bill be amended, or accompanied by legislative safeguards, to ensure each of the following.

1. Functional capacity must not be treated as a substitute for proper mental-capacity analysis. Decision-making vulnerability, exploitation risk and supported decision-making need must be recognised in access, planning and reassessment. The Commonwealth should commence work on a Mental Capacity Act, separately legislated, to give the scheme and every other Commonwealth program that depends on capacity a shared legal framework. Alongside the human-rights model that has correctly underpinned the scheme, the planning framework must integrate a modern medical model — properly safeguarded — to provide the clinical evidence base for assessing and meeting need. This sector deals far too much in subjectivity, and the Twilight Zone subjectivity has led us into. Medicine is science. Science is fact. Facts cannot be equivocated with. The most at-risk participants in the scheme cannot be assessed, supported or kept alive on ideology alone, and the absence of an integrated medical model is one of the reasons this submission has had to document the deaths it has documented.
2. Every higher-intensity plan must carry a crisis continuity component from day one, outside the ordinary plan rhythm, with a defined activation pathway.
3. Mandatory handover — provider-to-provider, hospital-to-provider, and NDIA-to-provider — must be legislated as a primary obligation, not left to delegated rules. The almost deliberate lack of sharing of critical information, alongside the introduction of new penalties that prevent providers from undertaking proper risk management and delivering correct care, is nothing short of criminal.
4. The support determination power must be narrowed, with a higher disallowance threshold, an evidentiary requirement tied to the cost of the supports being capped, and a statutory review right for affected participants.
5. The 90-day non-contact suspension and revocation pathway must be heavily qualified, with mandatory welfare checks, mandatory safeguards for participants with cognitive, psychosocial or communication impairments, and an absolute statutory bar on revocation by non-contact alone.
6. Redirection to "alternative supports" must not occur unless those supports are demonstrably real, available, competent and safe in practice.
7. Default registered plan management must apply to every plan, with self-management available only by exception on a tested basis, as a primary fraud-control and safeguarding measure.
8. Mandatory minimum workforce standards — Working With Children Check, security clearance appropriate to the cohort, current first-aid certificate, and a registered scope of practice — must apply to every worker delivering personal care or daily-living support inside the scheme.

9. A genuine inter-agency cooperation framework must compel the State systems — health, hospitals, primary care, mental health, housing, justice, education — to integrate disability inclusion rather than dump cases into the NDIS bucket. The South Australian audited Program 4 deficit of approximately A$951 million per year is the evidence that the dumping strategy is not even working for the States that operate it.
10. The NDIS Quality and Safeguards Commission, in its current form, should be ended or substantially restructured. The Department of Magical Thinking, as it has come to function, is not delivering on its statutory purpose, and its continued existence on the present model is a barrier to genuine safeguarding reform.
11. The NDIA and the wider administrative machinery must be subject to structural review on the same scrutiny standard the bill applies to participants and providers. Accountability in the other direction must be legislated, audited and reported on, with the same enforcement teeth the bill applies to the rest of the sector.
12. Thriving Kids must be designed and resourced as a universal, in-school foundational support, accessible to every child who needs it — not as a narrow funnel available only to the small minority who can navigate access. The program should incorporate health and nutrition supports from inception, given the cost-of-living crisis, documented childhood food insecurity, and the AIHW evidence on the link between developmental disadvantage, mental-health distress, and education and life outcomes. Anything less repeats the structural error that produced the original two-tier outcome.
13. Each State and Territory should appoint a dedicated NDIS liaison Minister inside its own Cabinet, with statutory responsibility to coordinate disability inclusion across State systems and to engage directly with affected constituents. The standard deflection of "that's a federal matter" should no longer be available as an answer to families calling about hospital ramping, school exclusion, housing insecurity, or family crisis tied to disability.
14. The Commonwealth must commence serious work on workforce professionalisation, multidisciplinary onboarding for higher-intensity participants, and whole-of-life pathways with binding inter-agency cooperation.
15. The Committee should treat this bill as an opening move, not a settlement, and should not pass it in its current form.

18. Closing

The NDIS needs reform. That much is beyond dispute. The Minister has said so. The Royal Commission has said so. The cohort the scheme exists to support has been saying so for years.

But this is a system that is meant to support and protect people with disability — not absorb their lives in bureaucracy, fear, and disillusionment. And it is a system that has been built inside a country that is itself not yet accessible. In a society that is not accessible, we cannot tolerate a disability scheme that is not accessible either. Not for the people the scheme exists to serve. Not for the workforce that delivers it. Not for the families that hold it together when it fails.

We need a scheme that focuses on need, not wants. We need to facilitate inclusion on an equal basis with the wider community, with the possibility of pursuing happiness beyond care, not in spite of it. We need tangible equality, not lip-service equity. Not token. Not photographed-and-filed. Tangible.

Disability is always real. It is unrelenting and ever-present. It does not care for schedules. It does not care about the football. It does not care about the weather or whether it is a public holiday. It is a constant. We must not allow the people inside this scheme to develop co-morbidities unnecessarily because the architecture above them could not do its job. We must not do more harm than we do good. We must not allow the curse of low expectations to set the pace.

We need a system that understands disability and its realities, despite the rawness of its existence — so that we may accommodate, protect, and include everyone in our community for who they are. Not for who they wish to be, or who they would be more convenient as, or how we would prefer to see them because the truth is too hard. For every disability, in every circumstance, we must deinstitutionalise care and match our business models to the concept — rather than dig our heels in and seek more money to continue doing it wrong.

This is about all of us. And it will take all of us — working together, without agendas, without conflicts of interest, without fear of political reprisal — to fix it. We must be strong and consistent for the people who count on us to be so.

This is a sector that is about dignity, love, and compassion. If we want it to be those things in practice, and not merely on paper, we need to be brave enough to be the people who put those things back into the system, into each other, and into ourselves. We cannot legislate humanity. But we can stop legislating its absence.

We must not allow ideology to be a safeguarding barrier. We must not allow a position taken in good faith ten years ago to be the reason a participant is unsafe today. We must lead the way and take everyone with us — the participants, the families, the workforce, the providers, the State Governments, the Commonwealth Government, the public servants, and the parts of the community that have not yet been asked. None of us gets where we need to go by leaving any of them behind.

If reform means tighter controls, broader powers and harder financial levers without fixing handover, capacity, workforce design, continuity, administrative dysfunction, and the architecture this submission has set out, then the Commonwealth risks making the same mistakes in a more efficient form.

That is not securing the NDIS for future generations.

> *That is failure with better stationery.*

Coda — Nothing about us without all of us

A final word, hand on heart. For too long the disability sector has lived by the principle "nothing about us without us." That principle was right. It was just unfinished. What we need now is nothing about us without all of us — government, participants, families, advocates, providers, support workers — all of us at the same table, with the loudest voices not the only voices. The way we have been having this conversation has not worked. The trauma it has invoked in everyone who lives inside it switches people off. We need to reinvigorate the dialogue if we are to save the NDIS for future generations. That is the work. That is the only way the work gets done.

Coda — A word of thanks

I want to spare the Committee the affectations of virtue-signalling delusion. I haven't the stomach for it, and it has not helped anyone. We are all too tired, too worn, and it is all too far down the line to pretend. If we want to save the NDIS, it is now every person's responsibility.

I also want to thank the Minister, the Honourable Mark Butler MP, for giving us all the kick we needed. That took courage. The next step is for the courage in the speech to find its way into the structure of the bill. The work of this submission has been to set out what that would look like.

Claire-Louise McCrackan CEO, Carers and Advocates Australia Pty Ltd

Hand on heart.