Submission to the Joint Parliamentary Committee on the National Disability Insurance Scheme

From: B (on behalf of "P")

Date: 13 October 2025

Request: This submission contains sensitive information, and we are requesting anonymity. I prepared it with my mother's input and support, but she was unable to make a submission herself as she has global aphasia.

Urgent Failures of Safeguards in the NDIS

My mother, P, barely survived a ruptured aneurysm in 2020 and returned home only because of an NDIS plan that recognised her complex, 24/7 needs. She has global aphasia and is a wheelchair user. She needs help with every single activity of daily life. The NDIA has repeatedly cut essential supports. In 2025, those cuts have caused ongoing and irreversible harm — tearing of muscles in P's dominant hand, loss of mobility and endurance, recurrent infections, a hospitalisation, and two vocalised suicidal episodes.

My sister and I — informal carers — have both sustained serious, clinically documented musculoskeletal injuries from trying to fill the gaps, including bilateral wrist damage requiring splints and surgical recommendations. Our ability to work and function has been put at risk, and we are seriously worried we may lose the ability to care for our mother permanently.

P's case demonstrates a systemic collapse in safeguards: the NDIA is making decisions that directly endanger participants, while its complaints, review, and "safeguard" systems fail to protect them. There are effectively *no functioning mechanisms* to prevent a single administrative decision from causing permanent physical injury or death.

This submission references key legal and policy obligations under:

- The **NDIS Act 2013** (objects and s.34 "reasonable and necessary" test);
- The **Participant Service Charter** and **Participant Service Guarantee**;
- The **NDIA Complaints Management and Resolution Rules 2018**;
- The remit of the **NDIS Quality and Safeguards Commission**; and

- The **Disability Discrimination Act 1992** (reasonable adjustments).

What Happened — Chronology and Concrete Harm

1. Hospitalisation and Initial Package (2020)

After an aneurysm rupture and eight months in hospital, during which there were periods of neglect, withholding treatment, and inappropriate restraint, P received an NDIS package providing 36 hours of daily support — recognising her need for two-person assistance and constant supervision. This enabled her to return home and start to recover.

2. Cuts and AAT Findings (2022)

P's first plan meeting following her return home, the NDIA took eight months to finalise a decision, ultimately issuing a plan that drastically reduced her funding. After an internal review and AAT proceedings, NDIA lawyers agreed in full that P's requested supports were *reasonable and necessary* under s.34.

3. Plan Rollovers and Decline (2022–2025)

Due to NDIA delays, the plan was rolled over annually rather than reassessed. During this time we were unable to establish a stable roster of trained workers despite trying multiple providers, agencies, and self-training. No company would properly train and assess their workers as competent before leaving them alone with P. We experienced multiple instances of support workers so inadequate P got food poisoning, skin infections, there was increased risk of falls, and personal care was so poor P had multiple UTIs, ending up in hospitalisation. At this point family carers are clinically burnt out, sleep-deprived, injured, and managing multiple mental health conditions.

P needed a new wheelchair, and was facing homelessness due to a lack of accessible rentals, so we put in a Change of Circumstances in February 2025.

Loss of Flexible Funding Use

During the first AAT hearing and subsequent plan review, we were able to use the annual plan funding flexibly to cover essential care and allied health needs while waiting for review, even if the

total allocation for a given category was insufficient. This flexibility meant P's critical supports could be prioritised, preventing further harm.

Under current NDIA processes, funding is released in strict, quarterly tranches. This means that even when a participant is underfunded for essential care, we cannot access the money needed immediately to cover urgent needs while waiting for review. Whilst "overspending" might typically be seen as a breach, for participants who were already wrongly underfunded, there is no alternative: flexible use was necessary to keep P safe, and the current system deliberately blocks that.

4. Egregious Cuts (Mid-2025)

We waited months and finally asked our local MP to facilitate a timely decision. A planner then called us trying to schedule a plan outcome meeting with less than 24 hours notice. He discouraged us from submitting new reports (we were never told the whole plan would be reviewed), and had not read the reports we did submit before the meeting, even though a decision appeared to have already been made.

The planner, who had never met P, and did not speak to her, reduced funded support from 36 hours per day to **7,** saying it was because we had not used the funds, despite having evidence that we could not find safe workers. There is a 6 month funding bridge that is not helpful in our situation, as we do not have care set up and cannot get care set up without longterm funding.

The planner ignored all treating clinicians' reports and overrode their recommendations, ignored the OT report indicating the family's carer burden was already extreme, even with full funding, and ignored our protestation that these cuts would put P's life at risk.

We did not get a decision on allied health as the planner had not read the reports, but received an e-mail the next day that they had all been cut significantly (most by 75%), despite clear evidence they were needed to maintain P's function and were of clear benefit. We had no opportunity to discuss these cuts as the planner told us to reply to the e-mail with any questions, but when we did we received an automated reply that the case had been closed.

We did not get a decision on the wheelchair P needed, as the NDIA had lost the paperwork and not even realised, five months later. The planner tried to tell us we didn't need to resend the complex AT report, as he had a letter of recommendation from a psychologist.

5. Ongoing Irreversible Harm (Mid–Late 2025)

Since the cuts:

- **P's physical deterioration:** P has developed irreversible damage to muscles, tendons, and soft tissues in her dominant hand. She has lost mobility, endurance, and lung capacity; bowel and pain issues have worsened due to reduced movement. Transfers are increasingly difficult and painful, and if this continues she may lose the ability to perform standing transfers and require hoisting — which would further reduce her independence and increase care needs and support costs.

- **Medical complications:** P has experienced infections, a hospital readmission, and at least two episodes of suicidal ideation that she was able to verbalise — ironically an indication that the weekly speech pathology that was cut to monthly was helping her communicate.

- **Carer burden and injury:** The cuts reduced funded support from 36 hours per day to 7 hours per day, meaning my sister and I must now provide the remaining 29 hours of care. In practice, the actual burden is much higher because we must supervise, assist, and sometimes substitute for inadequately trained support workers, and provide allied health interventions that were cut. This is on top of work, managing our own health conditions, and sleep deprivation. Both informal carers have sustained serious, documented, worsening injuries to hands and wrists, mental health deterioration, and chronic exhaustion. The expectation that we can safely provide this level of care is impossible, cruel, and causing daily injury.

- **Impact on family function and safety:** Our ability to keep P safe, maintain our own employment, and sustain basic functioning as human beings is at immediate risk. The stress and physical strain threaten our capacity to continue providing care, placing P's life and safety in further jeopardy.

The NDIA's administrative decisions have not only caused irreversible harm to P, but also direct, severe injury and functional risk to family carers, and have put the family home, income, and capacity to survive under extreme threat.

6. Complaints and Review Failures (Ongoing)

Complaints have been:

- **Closed without action** or reclassified as "feedback."

- **Ministerial referrals** elicited a promise for a response "in due course" (we are still waiting), when what we had asked for was urgent help and safeguards.
- **Refused escalation**, even when ongoing harm was acknowledged.
- **Slow or incomplete internal reviews**, despite multiple submissions of clinical evidence.

Recent correspondence (NDIA Complaints Team, 8–10 October 2025) explicitly acknowledges ongoing harm while closing the complaint and instructing us to contact the Ombudsman — a process that takes months and offers no protection.

The three justifications NDIA gave for plan cuts

At different points the NDIA provided three different explanations for the cuts. Each is wrong; together they show the decision was made first and rationales invented later.

"You didn't use the hours." (verbal at the outcome meeting)

Why it's invalid: those hours were not used because the NDIA and the market had failed to deliver safe, trained staff — a fact the NDIA knew. Section 34 of the NDIS Act requires the NDIA to be satisfied supports are necessary and considers why supports are not used; punishing a participant for system-wide failure to provide safe workers breaches the statutory test. The "unused hours" reason ignores the duty to examine underlying causes and is procedurally unfair.

"Assistance with self-care would not be effective and beneficial" (written reason in the plan) — in effect, saying it is "not beneficial to keep her alive."

Why it's invalid: this contradicts treating clinicians' reports, the earlier AAT finding that supports were reasonable and necessary (and clinically justified), and all observable evidence. OT reports confirmed P needs help with all activities of daily living, and 24/7 supervision. Section 34 requires the NDIA to be satisfied a support "will be, or is likely to be, effective and beneficial." The NDIA did not provide any clinical evidence showing lack of benefit.

"Replication — she lives with family so family should provide the care." (later written justification after asking for months, and only provided because of political intervention)

Why it's invalid: Section 34 requires the NDIA to take account of what is reasonable to expect of families/carers — it does not permit expecting families to provide unsafe, impossible levels of

complex care. Our OT report documented extreme carer burden; our family are all injured, unwell, and work; requiring two family members to provide 29 *extra* hours of complex care per day is impossible and dangerous. The AAT previously accepted 36 hours/day as reasonable despite P living with family then as well. The NDIA's attempt to treat family life as a reason to remove life-sustaining paid supports is unlawful and cruel.

Conclusion on justifications: they are inconsistent, unsupported by evidence, and none meet the legal test in Section 34 (necessity, benefit, effectiveness, and reasonableness of relying on informal supports). The shifting rationales show the cuts were not evidence-based.

The Human Cost — What This Has Done to Our Family

We are exhausted, traumatised, and losing the ability to keep going. The ongoing harm from the NDIA's decisions has destroyed our health, our stability, and our ability to function as human beings. We are watching our capacity to care collapse day by day. We are terrified of losing our home, our income, and the physical ability to keep supporting P — our hands and bodies are breaking down from the strain.

We have given up our lives to protect her, and yet we are forced to watch her be harmed while every internal safeguard fails. We have no hope left and are at the point of giving up entirely.

P works incredibly hard at therapy. She lost everything in her life — her home, her career, her independence — and still tries to stay cheerful. The NDIS has destroyed that progress and caused a major decline in her physical function and mental health. It is genuinely painful to witness.

This is not a matter of bureaucratic delay or administrative error. It is *bodily harm* and *the destruction of family life*. The NDIA created this harm, and nothing within the current system is capable of stopping it. Unless the Committee mandates enforceable safeguards and independent oversight, this will continue to happen to others — and more families will be broken in the same way.

Why This Matters — Systemic Failures Exposed

1. **A single NDIA decision can cause irreversible harm.**
   When planners misapply the s.34 test, there are no rapid, effective safeguards. Internal

review and ART processes take months or years. Participants can be — and are — harmed or killed while waiting.

2. **No independent oversight of NDIA decisions.**
   The NDIS Commission regulates providers, not NDIA decision-making. This leaves a fatal gap — *no body can intervene when the NDIA itself is causing harm.*
   Politicians have said they can no longer intervene to preserve NDIA independence. But if the NDIA itself is harming participants, and no one can step in, what happens to the person with a disability?
   I have asked Senator Jenny McAllister's office this three times. No one has answered. The silence implies the truth.

3. **Complaints and escalation systems fail in practice.**
   The NDIA's own policy requires risk-based escalation and acknowledgment of harm. Yet staff have told us escalation "requires approval from another team," and closed complaints despite ongoing danger. This breaches the NDIA's own **Complaints Management Rules** and violates procedural fairness.

4. **Ignoring reasonable adjustments and disability rights.**
   Requests for email-only communication — essential for a non-verbal participant and an anxious nominee — were repeatedly breached. This contravenes both the NDIA's Service Charter and the **Disability Discrimination Act 1992**.

5. **Misuse of the "informal supports" test.**
   Section 34 requires consideration of what it is *reasonable* to expect of carers. The NDIA's decision assumes unpaid family can deliver 29+ hours of high-risk care daily, ignoring medical evidence of injury and incapacity.

Legal and Policy References

- **NDIS Act 2013 (Cth)**
  - *Objects and Principles (s.3–4):* Supports should enable social and economic participation and provide certainty of care.

- *Reasonable and Necessary Supports (s.34):* NDIA must consider benefit, necessity, effectiveness, value for money, and informal support capacity.

- **Participant Service Charter / Service Guarantee:**
  Promises timely, respectful, transparent decisions — not met.

- **Complaints Management and Resolution Rules 2018:**
  Require escalation and referral when harm is alleged — ignored in practice.

- **NDIS Quality and Safeguards Commission:**
  Regulates providers only — cannot intervene in NDIA decision-making, leaving a fatal oversight gap.

- **Disability Discrimination Act 1992:**
  Requires reasonable adjustments; ignored in communication handling.

Specific Failings Demonstrated

- **NDIA ignored binding AAT agreement** confirming supports were reasonable and necessary. Their justification is that the AAT agreement only lasts for 12 months. But this ignores that what was deemed "reasonable and necessary" by NDIA's own lawyers cannot suddenly become "unreasonable and unnecessary" when circumstances and needs have not changed.

- **No risk assessment** before cutting critical supports.

- **Complaints closed despite admission of harm.**

- **Breach of procedural fairness** — decisions made without considering submitted evidence.

- **Failure to implement reasonable adjustments**, breaching the DDA and Service Charter.

Immediate Reforms Required — Minimum, Urgent, Enforceable Safeguards

These reforms are the absolute minimum safeguards that must exist if the NDIS is to adequately protect participants and have accountability for their errors.

1. NDIA Duty of Care to Participants

The NDIA must explicitly acknowledge a statutory and operational duty of care to participants. Currently, the NDIA refuses to recognise this duty, leaving participants unprotected and all other safeguards ineffectual.

- **Formal recognition required:** The NDIA must publicly and internally state that all administrative decisions, reviews, and complaints must be assessed against a duty to prevent physical, psychological, or social harm.
- **Every decision assessed:** No action or inaction may foreseeably cause harm; credible evidence of potential or ongoing harm must trigger immediate remedial action.
- **Breach consequences:** Ignoring credible evidence of harm constitutes a breach and must result in immediate safeguards or corrective measures.
- **Foundation for all other reforms:** This duty underpins interim restoration, clinical risk assessments, complaint escalation, and independent oversight — ensuring all safeguards are legally enforceable, operational, and effective, not symbolic.

2. Automatic Interim Restoration of Last Safe Plan or Equivalent Funding

- If a participant or nominee lodges a complaint or review and provides clinical evidence (doctor, OT, physio, or specialist) showing active, irreversible harm or imminent risk to life, the NDIA must immediately restore the prior funded supports or equivalent funding.
- This restoration remains in place until the internal review or tribunal makes a final determination.

3. Emergency Review / Escalation with 48-Hour Decision

- Complaints officers must have the authority to escalate immediately to a senior clinical decision-maker.
- The senior clinician must decide on interim restoration within 48 hours.
- If restoration is not approved, a written, evidence-based justification must be provided to the participant and nominee within the 48-hour timeframe.

4. Mandatory Independent Clinical Risk Assessment Before Major Cuts

- Any major reduction in funded supports—including direct care hours, allied health, or other essential supports—cannot proceed without an independent clinical risk assessment.
- This requirement applies especially to participants who are vulnerable or whose supports have previously been verified as reasonable and necessary by AAT/ART.
- The assessment must be conducted by an independent OT, physiotherapist, or relevant specialist.
- The assessment must be provided to the participant before any reduction is enacted.
- No administrative cut should occur without documented clinical review and risk mitigation.

5**. No Reliance on "Family Replication" Where Carers Are Incapacitated or Injured**

- The NDIA must publish and follow a rule assessing carer capacity.
- Paid supports cannot be removed or reduced on the assumption that family or carers can safely provide complex care if they are injured, unwell, employed, or otherwise unable.
- NDIA decisions must not impose impossible burdens on families, in accordance with s.34 of the Act.

6. Complaints System: Active Resolution, Transparency, and Safeguards

The NDIA complaints system must actively protect participants, not merely log feedback or close cases. Current practice—where complaints are closed despite ongoing harm, misclassified as "feedback," or left unresolved—is unsafe, unlawful, and violates procedural fairness.

The system must:

- **Investigate fully:** Every complaint alleging actual or imminent harm must trigger a thorough, documented investigation.
- **Escalate urgently:** Complaints with clinical evidence of serious or irreversible harm must be escalated immediately to a senior decision-maker with authority to act.

- **Implement interim safeguards:** While complaints are under review, the NDIA must restore previous supports or equivalent funding where harm is documented.
- **Provide substantive responses:** Complainants must receive written, evidence-based explanations for every decision, including refusals to restore funding or escalate.
- **Ensure complainant consent for closure:** Complaints cannot be unilaterally closed. Closure may only occur once the participant or nominee confirms the issue has been resolved.
- **Publish criteria and processes:** The NDIA must clearly communicate how complaints are assessed, escalated, reopened, and resolved, including timeframes, responsible officers, and appeal rights.
- **Audit and report:** Compliance with complaint processes and participant safeguards must be monitored and publicly reported, with serious breaches investigated and corrected.

Outcome: This reform ensures the complaints system is not symbolic but operationally capable of preventing ongoing harm, addressing systemic failures, and holding the NDIA accountable when administrative decisions put participants at risk.

7. Enforce Reasonable Adjustments and Audit Compliance

- Requests for reasonable adjustments (e.g., email-only communication) must be implemented immediately.
- Compliance must be audited regularly, and repeated breaches must be escalated and reported.

8. Independent Oversight with Authority to Intervene

An independent oversight body must be established or formally designated with explicit authority to:

- **Review NDIA decisions in real time** where participants face serious, ongoing, or irreversible harm.
- **Order immediate interim relief**, including restoration of supports or equivalent funding, pending internal review or tribunal outcomes.
- **Require systemic remedies** where NDIA practices breach law, policy, or participant safety.

The current NDIS Commission only regulates providers and cannot intervene when the NDIA itself makes harmful decisions. Without independent oversight, there is no enforceable mechanism to prevent or stop harm caused by administrative error. Oversight must be rapid, binding, and accountable, ensuring participants are never left exposed while internal NDIA processes or appeals drag on.

9. Ministerial or Parliamentary Intervention Should Remain Possible

- Ministerial or parliamentary intervention must remain possible where participant safety is imminently threatened, notwithstanding operational independence of the NDIA.
- Independence cannot shield the Agency from accountability when administrative decisions cause or risk serious harm.

What These Reforms Will Achieve

- **Prevent irreversible injury or death** while internal review or tribunal processes occur.
- **Rebuild trust** that the NDIS protects participants rather than abandoning them to bureaucratic error.
- **Reduce hidden costs** to families, the health system, and long-term care by preventing functional decline.
- Ensure NDIA practices **comply with s.34, human rights obligations, and reasonable adjustment requirements.**

Evidence Provided (on Request)

- Planning notes and outcome letters showing cuts and reasoning.
- 2022 AAT documentation confirming supports reasonable and necessary.
- 2025 internal review and complaint correspondence.
- Clinical reports and letters confirming P's need and deterioration.

- Medical evidence of carer injuries and incapacity.

Closing

The NDIS was built to protect people like P. It is now the instrument of her harm. A single NDIA decision, unsupported by evidence and insulated from oversight, has caused irreversible physical damage and unbearable distress.

Without urgent reform — independent oversight, enforceable escalation, and a duty of care — this will happen to others.

We ask the Committee to act immediately, not symbolically. The next person should not have to lose function, dignity, or life because of a bureaucratic error that no one is empowered to correct.

B (on behalf of P)