

To Whom It May Concern,

I write in opposition to aspects of the proposed NDIS legislation amendments due to serious concerns regarding human rights, procedural fairness, participant autonomy, and Australia's obligations under the United Nations Convention on the Rights of Persons with Disabilities (CRPD).

While I acknowledge the importance of maintaining the long term sustainability and integrity of the NDIS, this must not come at the expense of the fundamental rights, dignity, and safety of people with disability.

The proposed amendments significantly shift the balance of power away from participants and toward the NDIA and Ministerial discretion. This raises substantial concerns regarding transparency, accountability, and the erosion of participant choice and control, which were intended to be foundational principles of the scheme.

Specific concerns include:

The introduction of restrictive definitions around what constitutes an NDIS support creates uncertainty and increases the risk that participants will lose access to supports they currently rely upon to participate safely and meaningfully in daily life. The bill appears to narrow eligibility for supports through legislative instruments and delegated rules rather than primary legislation, limiting parliamentary scrutiny and reducing safeguards for participants.

The increased use of rule-making powers and broad discretionary authority is particularly concerning. Significant aspects of participant eligibility and support access may effectively be determined outside of Parliament through future NDIA rules and Ministerial instruments. This creates instability and makes it difficult for participants to understand their rights or challenge decisions fairly.

The proposed changes also risk undermining Section 34 principles regarding reasonable and necessary supports. The shift toward lists of approved or excluded supports risks creating a rigid system that cannot adequately respond to individual circumstances, functional impairment, or fluctuating support needs.

There is significant concern regarding the move toward impairment notices and categorisation systems that may reduce participants to administrative labels rather than recognising the complexity and individuality of disability. Disability is not static, and many participants do not fit neatly within predefined categories.

The legislation also appears to increase barriers to review and appeals processes. For many participants, particularly those with intellectual disability, psychosocial disability, cognitive impairment, or limited advocacy support, increased administrative complexity directly impacts access to justice and procedural fairness.

Further concerns arise regarding information gathering, monitoring, and compliance powers contained within the amendments. While fraud prevention is important, oversight mechanisms must remain proportionate and should not create an environment where disabled people are treated with suspicion simply for accessing support.

The bill also raises concerns under Australia's obligations pursuant to the CRPD, including but not limited to:

- Article 3 – Respect for individual autonomy and freedom to make one's own choices
- Article 5 – Equality and non-discrimination
- Article 19 – Living independently and being included in the community
- Article 21 – Freedom of expression and access to information
- Article 28 – Adequate standard of living and social protection

Legislation affecting disabled people should strengthen rights, inclusion, and certainty. Instead, many participants experience these reforms as creating fear, confusion, instability, and reduced trust in the system.

The NDIS was intended to move Australia away from paternalistic systems that controlled disabled people's lives. These amendments risk moving backwards toward a system where participants must constantly justify their existence, defend essential supports, and navigate increasingly restrictive bureaucratic processes.

I urge the government to reconsider provisions that expand discretionary powers, reduce flexibility, weaken participant safeguards, and allow critical operational details to be determined through subordinate legislation rather than full parliamentary scrutiny.

Any reform to the NDIS must remain grounded in human rights, co design with people with disability, procedural fairness, and the original intent of the scheme: genuine choice, control, inclusion, and dignity.

Sincerely,  
Phillippa Smoker