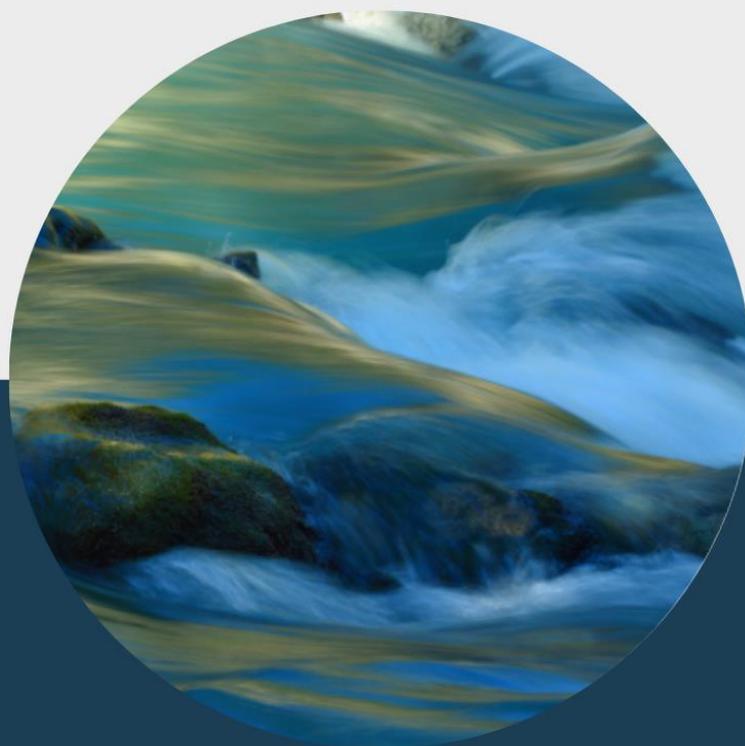


SUBMISSION TO THE LEGISLATIVE AFFAIRS COMMITTEE- NDIS AMENDMENT (INTEGRITY AND SAFEGUARDING) BILL



OTSi

[OTSi.net.au](https://www.otsi.net.au)

EXECUTIVE SUMMARY

The Occupational Therapy Society for Hidden and Invisible Disability (OTSi) welcomes the introduction of the *National Disability Insurance Scheme Amendment (Integrity and Safeguarding) Bill 2025* (hereafter called 'the Bill') and the opportunity to contribute to the Senate Community Affairs Legislation Committee inquiry. As Australia's disability safety net, the NDIS must balance integrity and sustainability with fairness, transparency, and strong protections for people with disability. Legislative reform is therefore critical to ensuring the Scheme continues to operate as a rights-based, participant-centred system.

OTSi broadly supports **Schedule 1** of the Bill, which strengthens the regulatory powers of the NDIS Quality and Safeguards Commission. These reforms have the potential to enhance participant safety, deter misconduct, and promote higher standards across the sector. To avoid unintended consequences, particularly for therapy and allied health providers, OTSi emphasises the need for clear guidance, proportionate enforcement, and implementation that complements existing AHPRA regulation and supports service continuity.

Schedule 2 presents a critical and timely opportunity to strengthen the NDIS by embedding essential safeguards within the primary legislation. OTSi supports measures such as the 90-day cooling-off period for withdrawal from the Scheme and modernisation of claims processes, while recommending targeted amendments to protect participants, prevent service disruption, and ensure fairness in payment and compliance processes.

A central concern of this submission is the lack of legislative, upstream safeguarding scaffolding for **Support Needs Assessments, plan variations, and the budget-setting method**, which are mandatory, determinative, and due to commence from mid-2026. These processes will apply to all participants and directly shape access to reasonable and necessary supports. OTSi seeks that the Committee consider key elements of these reforms, including assessment process, appeal rights, replacement assessments, and budget-setting principles, to be placed in the primary legislation as matters of integrity and safeguarding, rather than left to delegated legislation with limited parliamentary oversight.

OTSi therefore recommends targeted amendments to the primary NDIS legislation to enshrine participant rights to procedural fairness, transparency, review, and appeal; to ensure access to assessment reports and consideration of participant-provided evidence; to protect people with complex disability through genuine whole-of-person funding; and to provide transparency and accountability in budget setting. Together, these amendments would strengthen the integrity of the NDIS, align with the NDIS Review and Disability Royal Commission recommendations, and ensure the Scheme continues to meet Australia's obligations under the UN Convention on the Rights of Persons with Disabilities.

Summary of Recommendations

| No. | Issue / Area | Relevant Section(s) | Summary of Recommendation |
|-----|--|---------------------|--|
| 1 | Safeguards and provider regulation | Schedule 1 | Support Schedule 1 reforms to strengthen participant safeguards, with proportionate enforcement, clear guidance, and recognition of existing AHPRA regulation to avoid unintended impacts on therapy providers. |
| 2 | Transparency of reform implementation | Whole Bill | Publish the proposed implementation framework and sequencing of NDIS legislative reforms, including alignment with the NDIS Review and Disability Royal Commission, to support transparency and informed scrutiny. |
| 3 | Withdrawal from the NDIS | s29A | Extend the 90-day cooling-off period to 6 months where disability, health, or personal circumstances warrant additional time, to ensure withdrawals are voluntary, informed, and safe. |
| 4 | Electronic claims processes | s9A | Support electronic claims reforms with clear guidance, training, and phased implementation to prevent administrative burden or service disruption, particularly for smaller therapy providers. |
| 5 | Claim information requirements | s45A | Clarify limits on information requests, protect sensitive therapy records, and ensure payment processes do not disrupt participant supports or provider viability. |
| 6 | Plan variations and reassessments | ss47, 47A, 48 | Amend the Act to enshrine review and appeal rights for all plan variation and reassessment decisions affecting supports or funding, including rights to written reasons and participant-led evidence. |
| 7 | Support Needs Assessment legislative scaffolding | s32L | Define the purpose, scope, and minimum standards of Support Needs Assessments in primary legislation rather than leaving critical safeguards to delegated legislation. |
| 8 | Replacement Support Needs Assessments | s32L | Provide participants with an explicit right to a replacement assessment where the original assessment is inaccurate, inappropriate, or incomplete, and ensure access to assessment reports. |
| 9 | Notice of Impairments | s32BA, s34 | Require timely provision of a Notice of Impairments prior to Support Needs Assessments or planning, to support procedural fairness and informed participation. |
| 10 | Whole-of-person funding for complex disability | s32L, s34 | Amend the Act to confirm that whole-of-person assessments must result in funding that addresses holistic support needs, not only discrete impairments identified at access. |
| 11 | Budget-setting transparency | ss32K, 32J | Embed key principles and minimum standards for budget-setting in primary legislation, including transparency, fairness, proportionality, consistency, and fiscal integrity. |
| 12 | Access to assessment reports and evidence | s32L | Guarantee participant access to Support Needs Assessment reports and require consideration of participant-provided medical and allied health evidence within assessments. |

TABLE OF CONTENTS

| | |
|----|--|
| 2 | Executive Summary |
| 3 | Recommendations |
| 4 | Table of Contents |
| 5 | 1. About the Occupational Therapy Society for Hidden and Invisible Disabilities |
| 5 | 2. OTSi Response to Schedule 1 Amendments |
| 6 | 3. OTSi Response to Schedule 2 Amendments |
| 6 | 3.1 Withdrawing as a Participant – Section 29A |
| 6 | 3.2 Electronic Claim Forms – Section 9A |
| 6 | 3.3 Requirements for Submission of Payment Claims – Section 45A |
| 7 | 3.4 Plan Variations – Section 47A |
| 7 | 3.4.1 Why Primary Legislation Must Enshrine Appeal Rights |
| 8 | 3.4.2 Risks Arising from the Current Approach to Section 47A |
| 8 | 3.4.3 What Sections 47 and 48 Could Provide For |
| 8 | 3.4.4 Minimum Requirements for Section 47A Rules |
| 9 | 4. Proposed Amendments – Legislative Scaffolding for the NDIS Support Needs Assessment and Budget-Setting Method |
| 9 | 4.1 Right to a Replacement Support Needs Assessment |
| 10 | 4.2 Right to a Timely Impairment Notice |
| 11 | 4.3 Funding ‘Whole-of-Person’ Supports for People with Complex Disability |
| 11 | 4.4 Transparency and Legislative Scaffolding for the Budget-Setting Method |
| 12 | 4.5 Ensuring Participant Access to Support Needs Assessment Reports and Participant-Provided Evidence |
| 13 | 5. Conclusion |

1. ABOUT THE OCCUPATIONAL THERAPY SOCIETY FOR HIDDEN AND INVISIBLE DISABILITIES

OTSi is a national society whose purpose is to enable occupational therapists who work alongside people with invisible and hidden disabilities, to reduce barriers to full participation as active citizens of Australia. OTSi has a strong voice in systemic advocacy and policy direction, as well as enabling individuals to build better lives. Currently, over 70% of OTSi members identify as having a disability and/or as carers. OTSi is a formalised organisation arising from the NDIS Occupational therapy Community of Practice, a community comprised of over 10,000 occupational therapists. Occupational therapists play a fundamental role within the NDIS and are on the front line of identifying support needs, building capacity, proposing solutions, and working with participants towards their goals.

2. OTSi RESPONSE TO SCHEDULE 1 AMENDMENTS

The proposed amendments in Schedule 1 of the Bill are broadly welcomed as they strengthen safeguards for NDIS participants and support a more proactive and effective regulatory framework. Expanding the powers of the NDIS Quality and Safeguards Commission to intervene earlier, enforce compliance through a wider range of proportionate tools, and deter serious or systemic misconduct will help prevent harm. The introduction of civil penalties alongside criminal offences, enhanced monitoring and investigation powers, and new controls on misleading or harmful promotion of supports all contribute to a more responsive and protective regulatory environment that places participant safety, dignity, and rights at the centre of the Scheme.

Schedule 1 also provides stronger regulatory scaffolding for providers by clarifying expectations, strengthening accountability, and reinforcing the integrity of the NDIS market. Clearer consequences for non-compliance with registration requirements, the NDIS Code of Conduct, compliance notices, and banning orders will assist in lifting standards across the sector and addressing poor practice that undermines participant trust and confidence. In this respect, the amendments support ethical and compliant providers by promoting a more level playing field and reducing the risk that unsuitable individuals or entities continue to operate within the Scheme.

At the same time, the expanded powers may introduce new and heightened compliance workload for providers, particularly smaller providers. Therapy providers, including allied health services, may face additional workload given the clinical complexity of their work, high documentation requirements, reliance on professional judgement, and frequent interaction with participants who have complex support needs. Regulatory changes must be proportionate given the risk of increasing regulatory complexity for occupational therapy providers who are already highly regulated through the Australian Health Practitioner Regulation Agency (AHPRA).

To ensure the objectives of Schedule 1 are achieved without unintended consequences, it is essential that the new powers complement and do not duplicate the regulatory role of AHPRA for allied health providers, and are accompanied by clear, practical guidance from the Commission, reasonable and staged implementation timelines, and fair, proportionate application of compliance and enforcement measures. Clear communication about regulatory expectations, particularly in relation to information requests, promotional activities, and Code of Conduct obligations, will be important. This approach will help providers—especially smaller providers and therapy services—to adapt their systems and practices, maintain service continuity, and continue delivering safe, high-quality supports to NDIS participants while upholding the strengthened safeguards envisioned by the Bill.

3. OTSi RESPONSE TO SCHEDULE 2 AMENDMENTS

3.1. Withdrawing as a participant – Section 29A

OTSi welcomes the introduction of a 90-day cooling-off period for participants seeking to withdraw from the NDIS. This provides an important safeguard to ensure withdrawal requests are voluntary, informed, and in the participant's best interests, reducing the risk of physical, mental, or financial harm. We support the clear written confirmation from the NDIA, the broadening of notification methods, and the requirement to explain the consequences of withdrawal and how to cancel a request, which collectively enhance transparency and participant choice.

Recommendation: We strongly agree and recommend that the cooling-off period should be extended up to six months where there is evidence of a participant's disability, health, or other circumstances indicate additional time is needed and necessary. Allowing the NDIA to extend the period, either proactively or at the participant's request, ensures participants, including those with hidden and invisible disabilities, have sufficient time to consider their options and seek advice, helping to prevent premature or unintended exits from the Scheme. Clear communication and consistent application of these measures will be essential to maximise their effectiveness and protect participant safety.

3.2. Electronic Claim Forms – Section 9A

We welcome the amendments to Section 9A, which modernise the claims process by allowing the NDIA to publish forms or representations online and approve different forms for different classes of claims. These changes aim to improve clarity for providers and participants, streamline electronic claims submission, and support efficient processing.

At the same time, there are risks for providers, particularly smaller, regional or less digitally-resourced providers, in adapting to mandatory electronic submission and navigating multiple forms or representations. Without clear guidance, training, and ongoing support, providers may face administrative errors, delayed claims, or inadvertent non-compliance.

Recommendation: We support the reforms and recommend that the NDIA provide clear communication, accessible guidance, and a phased or supported implementation to ensure all providers, particularly smaller providers and therapy providers, can transition to electronic claims effectively, maintain compliance, and minimise operational disruption.

3.3. Requirements for submission payment claims – Section 45A

We welcome the intent of the amendments to s45A to clarify requirements for submitting claims and ensure timely provision of supporting information. However, we are concerned that the requirement under subclause 45(3A) for all requested information to be provided before payment could create significant risks for participants and providers. From a therapy perspective, this raises particular concerns as providers may be asked to submit sensitive clinical or private therapy notes to satisfy information requests, which could compromise participant confidentiality and create administrative burdens. There is also a risk of service and support disruption if claims remain unpaid due to missing or difficult-to-provide information, especially where the burden of evidence falls on participants. The lack of reviewability for NDIA decisions to extend timeframes or treat information as

received (subclauses 45(3D) and 45(3E)) may further exacerbate these risks, as the option to resubmit a claim does not fully mitigate potential delays or harm.

Recommendation: We recommend that legislative clarity be provided on the boundaries of s45A, including the NDIA's discretion in requesting supporting information, the types of information that can be required, and the application of extensions, with explicit safeguards to protect sensitive therapy records and ensure continuity of supports.

3.4. Plan Variations Section 47A

3.4.1. Why primary legislation must enshrine appeal rights

Sections 47 and 48 of the *National Disability Insurance Scheme Act 2013*, as amended by the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024*, establish the legislative framework for plan variations and reassessments. While the Act states that review rights remain available, in practice the effectiveness of those rights will depend heavily on the operation of the delegated legislation made under section 47A. Given the significant impact that plan variations can have on a participant's supports and funding, this reliance on Rules and Ministerial determinations creates legal, practical, and human rights risks. We therefore consider it necessary and appropriate that core appeal and review safeguards be embedded directly in the primary legislation.

Decisions made under sections 47 and 48 can increase or decrease a participant's total plan funding and may occur without a full plan reassessment or a new Support Needs Assessment. These decisions can materially affect participants' rights, wellbeing, and access to reasonable and necessary supports. As such, they should be subject to robust procedural fairness protections that are clear, stable, and subject to parliamentary oversight. Recent media throughout December 2025 has highlighted significant concern regarding increased automation of NDIS decision-making and the limited appeals rights arising from the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024*¹²³

Leaving the substance of review pathways to delegated legislation risks creating a system in which appeal rights exist in theory but are ineffective in practice. Delegated legislation can be amended with limited scrutiny and may narrow or constrain review processes over time. This is particularly concerning in a Scheme where reassessment and variation processes are mandatory and ongoing. Embedding appeal rights in the Act would provide certainty, protect participant trust, and ensure compliance with fundamental administrative law principles and Australia's obligations under the UN Convention on the Rights of Persons with Disabilities, including access to justice and effective remedies.

¹ [Most NDIS participants will lose external avenue to appeal funding amounts under new system, Senate estimates told | National disability insurance scheme | The Guardian](#)

² [Did we learn nothing from robodebt? NDIS automation will put vulnerable lives at the mercy of machines | Georgia Van Toorn | The Guardian](#)

³ [After opposing the Coalition's 'robo' NDIS reforms, Labor accused of going down similar path - ABC News](#)

3.4.2. Risks arising from the current approach to section 47A

Proposed amendments within the Bill state that plan variations under section 47A may involve both increases and decreases to total funding. While the Government has indicated that this does not introduce new powers, the inclusion of an explicit reference to funding decreases creates a risk of unintended consequences. In particular, funding could be reduced without a new Support Needs Assessment and without the participant's agreement, even though plan variations are described as being prepared "with the participant". This raises concerns about transparency, consent, and accountability, especially if variation powers are used more broadly than anticipated.

If these decisions are driven by tools, internal processes, or automated systems, there is a real risk of a closed-loop decision-making environment in which reductions are effectively rubber-stamped, and meaningful external scrutiny becomes difficult. Without clear legislative safeguards, participants may experience reductions in supports without timely, accessible, or effective avenues for appeal.

3.4.3. What sections 47 and 48 should provide for

Amending the primary legislation would set minimum standards that the Rules must meet. In particular, sections 47 and 48 should be amended to explicitly require that:

- decisions to vary or reassess a plan that affect funding or supports are reviewable decisions for the purposes of section 99;
- participants have a right to receive written reasons for decisions, including how evidence and assessment outcomes were weighed;
- participants have a right to provide their own evidence, including reports from treating health professionals who understand their history, needs, and circumstances; and
- where a decision relies on an assessment, there is access to a replacement or independent assessment where the original assessment was inaccurate, inappropriate, or incomplete.

3.4.4. Minimum requirements for the Section 47A Rules

Even with legislative amendment, the Rules made under section 47A will remain critical to whether review rights operate effectively in practice. At a minimum, the Rules must include:

- **Time-critical pathways** for urgent circumstances, ensuring rapid decisions where a participant's health, safety, or wellbeing is at risk.
- **A genuine right to submit participant-led evidence**, including clinical and functional evidence from treating professionals.
- **Transparency and procedural clarity**, including clear steps, defined timeframes, and detailed written reasons for decisions.
- **Effective tribunal safeguards**, ensuring that internal and external review bodies can meaningfully scrutinise decisions rather than defer to tools, scores, or internal NDIA processes.

Recommendation: We recommend that sections 47 and 48 of the *National Disability Insurance Scheme Act 2013* be amended to expressly enshrine **ALL** participants' rights to procedural fairness, review, and appeal in relation to plan variations and reassessments, for all NDIS Supports. In particular, the Act should confirm that any decision made under sections 47, 47A or 48 that materially affects a participant's supports or funding is a reviewable decision, supported by a right to written reasons and the ability to provide participant-led evidence,

including evidence from treating health professionals. These primary legislative safeguards must be complemented by section 47A Rules that provide time-critical pathways for urgent circumstances, clear and transparent processes, and effective access to independent tribunal oversight. Embedding these protections in the Act is necessary to prevent unintended reductions in supports, ensure meaningful scrutiny of decision-making, and maintain fairness, trust, and integrity in the NDIS as the new planning and assessment framework is implemented.

4. PROPOSED AMENDMENTS -LEGISLATIVE SCAFFOLDING FOR THE NDIS SUPPORT NEEDS ASSESSMENT AND BUDGET-SETTING METHOD

The *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* provided insufficient detail regarding NDIS Support Needs Assessments under **section 32L** and the method for participant budget setting under **section 32K**, despite these reforms being central to the future operation of the Scheme and scheduled to commence in mid-2026. This represented a missed opportunity to embed essential safeguards in the primary legislation, with critical elements instead inappropriately relegated to the NDIS Rules and Ministerial determination. **Schedule 2 of the current Bill** presents a critical and timely opportunity to strengthen the NDIS by embedding these safeguards directly within the Act.

Support Needs Assessments under section 32L and the budget-setting method under section 32K will be mandatory processes, will apply to all existing and new participants, and will directly determine plan budgets. Given their significance for safeguarding, Scheme integrity, and participant rights, it is essential that appropriate legislative scaffolding be included in the primary NDIS legislation, rather than leaving key elements to delegated legislation with limited parliamentary oversight. The 2024 Act introduces the construct of “participant need for supports” as a core determinant of resource allocation yet allows its definition and operation to be largely established through the Rules. Without clear legislative framing, there is a risk that mandatory assessments and budget-setting processes will operate with insufficient transparency, consistency, and procedural fairness, undermining participant trust and community confidence in the Scheme.

Recommendation:

The primary NDIS legislation should be amended to define the purpose of Support Needs Assessments under section 32L, the meaning of an “assessment of a participant’s need for supports”, and the key features and minimum standards of the assessment process, as well as to articulate key principles governing the budget-setting method under section 32K. These elements should be set out in the Act itself, rather than solely in the NDIS Rules, to ensure appropriate parliamentary oversight, transparency, and protection of participant rights.

4.1. Right to a replacement Support Needs Assessment

The *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* introduces a mandatory Support Needs Assessment under section 32L of the NDIS Act, the outcomes of which will directly inform participant budgets. However, the Act does not adequately protect participants where a Support Needs Assessment does not accurately reflect their support needs. Current, it appears the Support Needs Assessment conducted under section 32L is not a reviewable decision for the purposes of section 99 of the NDIS Act, meaning participants have no clear avenue to challenge an inaccurate or inappropriate assessment before it informs funding outcomes. This creates a significant risk of inadequate plans, increased participant distress, and the development of an adversarial assessment process that undermines trust in the Scheme.

Recommendation:

The primary NDIS legislation should be amended to provide participants with an explicit right to a replacement Support Needs Assessment under section 32L where the original assessment does not accurately reflect their support needs. This amendment should also require that participants are given access to the Support Needs Assessment report and an opportunity to comment on it prior to finalisation, and that evidence from treating health professionals and current providers is considered, consistent with the recommendations of the NDIS Review.

4.2. Right to a timely Impairment Notice

Under the *National Disability Insurance Scheme Act 2013* as amended by the *Getting the NDIS Back on Track No. 1 Act 2024*, section 34 now restricts funded supports to those that relate to the specific impairments for which a person meets the disability or early intervention requirements, meaning only impairments identified at the point of access may form the basis for funded supports. This change risks disadvantaging participants with complex, acquired, or progressive disabilities who may have support needs arising from impairments that were not fully identified at access. Furthermore, while the amendments introduce a new section 32BA requiring the provision of a *notice of impairments* when a participant meets the access criteria, the Act does not yet guarantee that participants will receive this impairment notice and details of recognised disabilities **before** undergoing a Support Needs Assessment or planning discussions. Without a clear legislative requirement to provide the impairment notice in a timely way prior to assessment, participants may be assessed without certainty about which impairments are recognised, increasing anxiety and undermining procedural fairness and informed participation. This is particularly important given new framework plans are likely to extend for up to 5 years, and appeals pathways are limited.

OTSi members anecdotally and extensively describe participants experiencing the ‘disappearing’ of impairments from the NDIA computer systems, meaning participants are then unable to access supports for those impairments as the NDIS no longer recognises them. This issue has been noted by media⁴, and in submissions by peak bodies⁵ and leading legal disability rights organisations⁶.

Recommendation:

The NDIS Act should be further amended to explicitly require that a participant’s *Notice of Impairments* under section 32BA be provided immediately or at least 6 months **before** any Support Needs Assessment or planning process commences, thereby enshrining a participant’s right to this notice as a safeguard to ensure procedural fairness, reduce distress associated with reassessment, and support meaningful participation in the assessment process.

⁴ [Exclusive: NDIA accused of ‘repeated non-compliance’ as it prepares for autism reforms | The Saturday Paper](#)

⁵ NDIS Joint standing Committee, Responses to Questions on Notice, Document no. 5 (ARATA), p.6. [Additional Documents – Parliament of Australia](#)

⁶ NDIS Joint Standing Committee, Submission no. 5, (Villamanta), p.11. [Submissions – Parliament of Australia](#)

4.3. Funding ‘whole of person’ supports for people with complex disability

While the NDIS has described introducing a “whole-of-person” approach to assessment through the new planning framework, the *National Disability Insurance Scheme Act 2013* as amended by the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* does not sufficiently ensure that this approach will result in funding that addresses whole-of-person support needs, particularly for people with complex, multiple, or interrelated disabilities, including those with invisible disabilities. The Amendment Act inserted section 32L into the NDIS Act, requiring the CEO to arrange a *support needs assessment* early in the planning process to identify a participant’s disability support needs. However, section 34 (as amended) links funded supports and budgets to those needs that arise from impairments for which the participant meets the *disability or early intervention* requirements, potentially imposing artificial distinctions between impairments that do not reflect the lived realities of complex disability. This means that, despite holistic assessment intentions under section 32L, reductions in function and associated support needs that are not easily attributable to one specific impairment may not be fully funded if they do not align neatly with the impairment categories recognised at access. Consequently, rigid or singular impairment-based assumptions embedded in section 34 risk creating further barriers to identifying and meeting the actual support needs of participants with complex disability. OTSi members anecdotally report the support gaps when complex disability support needs are reduced to impairment-based supports, rather than whole of person supports. Further, the issue has been reported by legal advocates in recent media⁷.

The NDIS Review (Supporting Analysis, p.299) report states “*it is important to note that, the new approach to support needs assessment should take account of all of people’s disabilities and end the focus on primary and secondary diagnosis*”.

Recommendation:

The primary NDIS legislation should be amended to clarify that a *support needs assessment* conducted under section 32L must result in funding that addresses the participant’s *whole-of-person* support needs, not only those linked to discrete impairments identified at access under section 34. This amendment would better align the Act with the intent of a whole-of-person approach endorsed by the NDIS Review, respect Australia’s obligations under the UNCRPD, and support people with complex disability in a genuinely holistic and integrated manner.

4.4. Transparency and legislative scaffolding for the budget-setting method

While the *National Disability Insurance Scheme Act 2013* as amended by the *National Disability Insurance Scheme Amendment (Getting the NDIS Back on Track No. 1) Act 2024* establishes that *support needs assessments* (under section 32L) will inform a participant’s plan and reasonable and necessary budget, the Act leaves the core method for calculating that budget to be specified through delegated instruments rather than in primary legislation. Under section 32K(1), the Minister may determine in a legislative instrument the method for working out a participant’s reasonable and necessary budget, including how information from the support needs assessment is translated into total funding amounts and flexible versus stated supports. Alongside this, section 32J and associated rule-making powers allow the NDIS Rules to set criteria and methods that the CEO must apply in budget-related decisions.

⁷ [Calling for a ‘Whole of Person’ approach to NDIS funding - 2SER - 2SER](#)

Given the centrality of the budget-setting method to resource allocation, participant rights, Scheme sustainability, and transparency, leaving defining features of the method to delegated legislation and the NDIS Rules risks limited parliamentary oversight and a 'black-box' approach to how assessment outcomes are translated into funding decisions. Without clear legislative benchmarks, participants and the community lack certainty about how budgets are calculated and how principles such as fairness and consistency are upheld.

Recommendation:

The primary NDIS legislation should be amended to include defining features and key principles of the budget-setting method within the Act itself, rather than leaving them solely to delegated instruments under section 32K and the NDIS Rules under section 32J. At minimum, the legislation should set out **minimum standards** for how information from support needs assessments is translated into reasonable and necessary budgets, including statutory principles of transparency, fairness, proportionality, consistency, and sound fiscal management. This legislative clarity would strengthen parliamentary oversight, protect participant rights, and build community trust in NDIS planning and resourcing.

4.5. Ensuring participant access to Support Needs Assessment reports and regard for Participant-provided medical and allied health evidence within the Support needs Assessment (Section 32 L)

We recommend that Section 32L of the *NDIS Act* be amended to explicitly ensure that participants receive a full copy of their Support Needs Assessment report and can have relevant evidence from their treating health and allied health professionals regarded as part of the assessment. While the current provision requires the assessment report to be provided to the CEO, there is no legislative guarantee that participants themselves will have access to the report, limiting transparency, procedural fairness, and the ability to correct errors or provide additional context. Explicitly enshrining a participant's right to receive the report and to submit supporting evidence would strengthen the integrity and legitimacy of the assessment process, support more accurate and person-centred plan outcomes, and reduce the risk of unnecessary distress or misallocation of supports. The NDIS Support Needs Assessment process has not yet been transparently piloted, proven, or finalised. It is therefore unsafe and reckless to exclude evidence provided by treating, qualified professionals, particularly given that many assessors under the proposed model will not be professionally trained allied health professionals.

OTSi has documented the critical role of allied health evidence within the NDIS and compared the current policy proposal to exclude allied health evidence provided by the participant from NDIS Support needs Assessment as running contrary to international practice in disability support needs assessments.⁸ Strong legislative scaffolding is essential to reduce the risk of the issues we see arising from the roll-out of similar assessments in the aged care system, where it is reported that algorithmic decision making takes precedence over the clinical decision making of allied health professionals, with significant impact on older people⁹ ¹⁰. OTSi has documented an alternative assessment model that could further reduce potential risk and trauma associated with NDIS Support Needs Assessments¹¹.

⁸ [The critical role of Allied Health in Support Needs Assessments OTSi paper.docx - Google Docs](#)

⁹ [Algorithms overriding clinicians: why aged care's new IAT system is eroding trust and burning out assessors | Hello Leaders AUS](#)

¹⁰ [Invox | A Letter to the Minister](#)

¹¹ [Best-Practices-Support-Needs-Assessment-for-the-NDIS-OTSi-31012025-FINAL.pdf](#)

Please note a parliamentary petition calling for amendments to Section 32L to confirm that NDIS support needs assessments must have regard to NDIS participant-provided medical and allied health evidence and reports considered and included as part of the NDIS support needs assessment process, received over 6000 signatures and was presented to the House on 27 October 2025 [Reference number EN7545¹²]. It has been referred to the Minister for Disability and the National Disability Insurance Scheme. Under the petition requirements, Ministers are typically asked to respond to a referred petition within 90 days i.e. by January 27th, 2026 in this instance.

Recommendation:

Amend section 32L of the *NDIS Act* to require that participants receive a full copy of their Support Needs Assessment report and that all relevant evidence provided by their treating health or allied health professionals is considered in the assessment. This amendment will enhance transparency, safeguard participant rights, support person-centred planning, and ensure that assessment outcomes accurately reflect individual needs.

5. CONCLUSION

OTSi recognises the importance of the National Disability Insurance Scheme Amendment (Integrity and Safeguarding) Bill 2025 in strengthening participant protections and improving Scheme integrity. Embedding these protections in primary legislation is essential to maintaining the integrity of the NDIS, safeguarding people with complex and invisible disabilities, and ensuring alignment with Australia's human rights obligations. OTSi would be pleased to provide further information to assist the Committee, including through attending meetings or hearings to discuss the issues raised in this submission.

¹² [e-petitions – Parliament of Australia](#)