



NDIS Transitional Rules for NDIS Support

Submission from the Physical Disability Council of NSW

Friday 23rd August 2024

About Us

The Physical Disability Council of New South Wales (PDCN) is the peak advocacy organisation for people with physical disabilities in NSW. We stand up for the rights of people with physical disabilities, advocate for disability inclusion across Government and business, and drive systemic reform around accessibility.

PDCN is the sector coordinator for the NSW Disability Advocacy Network (NDAN). NDAN is a consortium of disability advocacy organisations based in NSW. As a collective we represent the rights of all people with disabilities residing in NSW.

PDCN is closely monitoring reforms to the NDIS. We note the Government, at the request of the disability sector, removed the Applied Principles and Tables of Support replacing it with 'transitional rules' until the NDIS Rules are finalised. We support this approach but would have preferred more time to draft a submission as the consultation timeline of two weeks (with a last minute one week extension) was not sufficient time to consult with people with physical disabilities.

We understand that the success of the NDIS support system is dependent on the implementation of a system of foundational supports and enhanced mainstream disability supports. Our primary focus is balancing the sustainability of the NDIS with the need for people with disabilities to be treated fairly and reasonably. Reducing the cost of the NDIS should not come at the expense of people with disabilities.

The following submission draws on the knowledge and experience of people with lived experience of physical disability.

The broad categories to guide decision making about NDIS supports

The NDIS must remain sustainable while balancing the need for people with disabilities to be cared for, included in society and be assisted to make economic contributions.

The following four categories should guide the development of the NDIS supports.

1. The NDIS is an insurance program for people with significant and permanent disability that affords people with disability the dignity everyone deserves. Supports

must be based on what provides people with disability with dignity and to allow them to achieve their aspirations.

2. The NDIS is an economic investment in our country. People with significant and permanent disability might need supports that enable them to attend school, higher education and employment. This carries a significant economic benefit. The NDIS might fund, for example, a support worker to wash and dress a participant, but that participant might then go to work and contribute economically through income tax and stimulating the economy with spending on local business.
3. The NDIS contributes to preventative health and future savings. The NDIS should be able to provide people with permanent disability with supports throughout their entire life, at whatever point they may acquire a disability. Yet, NDIS supports do not always have to be ongoing. They can be used to provide medical and health intervention to prevent significant and permanent disability. A good example is stroke recovery. Following a stroke medical and rehabilitation supports can greatly enhance the chances of a person avoiding long term physical disability. This in turn, reduces the need for greater amounts of financial support from health and NDIS in the future, and can help people return to workforce earlier. Short term NDIS funding to prevent significant and permanent disability is a good economic investment.
4. The NDIS should invest in early intervention. Children who are born with or acquire significant and permanent disability need support from the Government and their families. In this capacity NDIS is an investment in a civilised, resilient and robust future state. Children should be supported so they can fulfil their potential, engage with their peers, learn at school and, eventually, engage in higher education and employment. Early intervention is also about parental support. Helping parents understand and navigate their child's disability will benefit the children in the long term. NDIS could fund a support worker to assist a child, or it could teach parents how to manage their child disability now and into the future. Early intervention is about the needs of the child *and the parents*. NDIS supports should reflect this approach.

Recommendation 1 – There should not be a NDIS supports list, but a set of guidelines underpinned by the principles of individualised decision-making, "reasonable and necessary" support, and value for money. These principles must align with existing NDIS legislation and promote community inclusion without causing harm.

If the Government decide to move forward with a rigid NDIS Supports list against the advice of Disability Representative Organisations and Disability Advocacy Organisations, then it must ensure that the list is not exhaustive, follows the following recommendations and that this list is subject to (at a minimum) yearly revision.

The NSW Disability Advocacy Network (NDAN) drafted a [submission](#) about the NDIS Bill. In this submission, concerns were raised about the NDIS Rules for NDIS supports being drafted outside of the NDIS Bill. The disability sector has deep concerns about this approach to the NDIS Supports List.

Concerns which have been [raised](#) by Disability Representative Organisations are that the lists have not been developed with people with disabilities, the current draft list could limit flexibility which forces people with disability to rely on more expensive or inappropriate support options. *There is concern about the implementation of the list, particularly around reviewable decisions and the accessibility of the review process. There needs to be clear, inclusive guidelines which are not exhaustive.*

To emphasise one of our key recommendations, the NDIS Support list should provide helpful guidance but not be exhaustive.

There needs to be flexibility in how NDIS funds are spent on supports – cost effective purchases is one way of achieving flexibility. For example, one of our members is funded for someone to help carry her grocery shopping. If that person preferred to pay for the delivery of the groceries (from Woolworths or Coles for example) then the NDIS could achieve its obligation at less expense.

The list does not account for unique individual circumstances, leading to decisions that may harm people with disabilities, especially given the existing NDIA delays. People with disability should have the choice and control to decide what makes most sense for them with the money allocated in their plans.

By restricting access to mainstream products adapted for disability needs, the list forces people with disabilities to use more expensive, disability-specific suppliers. Another example is the exclusion of funding expenses at hair salons. This exclusion might have a logical basis if hair salons are considered a luxury. However, some participants are funded by NDIS to have their hair washed by a support worker. The cost of washing a person's hair at a hair salon may be cheaper than funding a support worker to wash someone's hair.

Recommendation 2 – If a restrictive NDIS Supports list is used, the list must use simple terminology and be in an easier to read format.

The draft list is dense, lacks page numbers, and is difficult to navigate. Instead of clarifying, it complicates understanding of what supports are included or excluded.

There should be a clearer division between the 'NDIS Supports list' and 'Supports that are not NDIS supports list'. It is not clear what the word 'carve out' means. The words 'exclusion' or 'not included' or 'not provided by NDIS' are simpler.

For the "carve out" entries, when it says "NA" it is not clear if this means there will be no exclusions or that the exclusions are not yet decided.

For the section 'Supports that are not NDIS supports list', if in table format, it would be beneficial to the reader to have listed where those supports CAN be accessed through the public services, if not the NDIS. e.g. Job Access

Recommendation 3 – If a restrictive NDIS Supports list is used, remove the contradictions in the NDIS support list.

In the 'Support that are NDIS Supports' under *Assistance Animals* it says NDIS provides costs such as vet fees. However, in the 'Supports that are not NDIS supports' under section *day-to-day living costs* veterinarian costs are not covered by NDIS.

In the 'Supports that are NDIS supports' under *Assistance to Access and Maintain employment or higher education* it says that supports to obtain or retain employment and individual employment support are covered by NDIS. However, in the 'Supports that are not NDIS supports' it says that work-specific support related to recruitment, work arrangements or work environment is excluded.

The *Assistive equipment for recreation* is a good NDIS support. Yoga is a form of recreational activity. But yoga is excluded as a NDIS support.

Recommendation 4 – If a restrictive NDIS Supports list is used, remove the ambiguity in the NDIS support list.

The 'supports not included section', where it states the carve outs "may be considered for certain participants", needs more clarity as to what "may" refers to:

- "may" be included for some participants but may remain as an exclusion for everyone.
- "may" be considered for specific participants that meet certain requirements, but not for those who don't.

It is not clear what the *Assistance in coordinating or managing life stages, Transitions and Supports* aims to do. This section should focus on the process of supporting a person discharged from hospital and returning home with an acquired disability.

It's not clear in the *Assistance with Travel/Transport Arrangements* section if NDIS will cover transport to social events or to visit family and friends. Also, it is not clear from this section what 'training' the NDIS will fund. This section should be clearer about what training will be funded.

The development of daily living skills section is good, but it should include the word capacity building. Capacity building should be used to support someone or teach someone to live independently, or independently as part of a shared living arrangement.

It is not clear what constitutes 'innovative community participation'. This section needs to be clarified.

The *Description of Assistance Animals* should be expanded. Assistance animals 'can guide a person through a crowded place, reduce high anxiety and stress, enhance social engagement, respond to an emergency etc'.

Recommendation 5 - If a restrictive NDIS Supports list is used, the NDIS Support list should include supports for parents of a child with disabilities.

Include specific disability-related supports such as assistive technology / accessibility alterations that parents of children with disability need to best care for their child at home (and out, if relevant)

Include antenatal classes for mothers about to give birth to children with disabilities to prepare them for the birth, understand the additional needs of the child and link them to services.

Include self-care supports for parents of children with disability, such as counselling sessions, self-care training/workshops and/or relief time (support worker relief time hours)

Include self-care supports for children with parents who have disability, such as counselling sessions, self-care training/workshops and/or relief time (support worker relief time hours)

Include First aid and disability specific emergency training for parents and family members (i.e. siblings) of children with disability.

Recommendation 6 – If a restrictive NDIS Supports list is used, ensure that access to the 'carve outs that may be considered NDIS Supports for certain participants' is not onerous for participants.

The following types of supports should be available to participants:



Speech therapy, occupational therapy and literacy and numeracy support for children with developmental delays.

Physiotherapy, chiropractic and physiology for people with physical disabilities.

Specialist sport and exercise classes for people with disabilities especially children such as swimming, football, karate etc.

Disability specific menstrual items such as period underwear with the side clip and the plastic tampon applicators. Menstrual products are not a 'lifestyle' choice akin to gambling.

Botox is commonly used for people with physical disabilities. Botox is an essential item for many people with physical disabilities because it prevents spasticity, as well as skin ulcers and infections.

Disability-specialised Life/Career coaches should be available to support people with disabilities to find employment and achieve their goals.

Mental health therapies should be available for dealing with disability-related trauma.