Occupational Therapy Australia

NDIS Amendment (Securing the NDIS for Future Generations) Bill – OTA Submission – May 2026



Occupational Therapy Australia

Introduction

About Occupational Therapy Australia

OTA is the peak membership body representing occupational therapists nationally. We empower and elevate over 34,000 exceptional professionals who in turn work in partnership with individuals and communities to enable meaningful participation in the activities of life. We're the single, unifying connection point for occupational therapists in the nation, leading the profession through education, support, and advocacy, so every occupational therapist is informed, inspired and fulfilled in their profession.

As one of Australia's largest allied health workforces, occupational therapists provide essential supports across primary care, aged care, disability, mental health, veteran care and more.

About Occupational Therapy

Occupational therapy is a person-centred health profession concerned with promoting health and wellbeing through participation in occupations. Occupational therapists achieve this by working with participants to enhance their ability to engage in the occupations they want, need, or are expected to do; or by modifying the occupation or the environment to better support their occupational engagement. Occupational therapists provide services across the lifespan and have a valuable role in supporting participants affected by developmental disorders; physical, intellectual, chronic and/or progressive disability; and mental health issues.

Occupational therapists are highly skilled in assessing the degree to which a person's disability affects their level of function in daily tasks. Given their expertise and area of practice, many occupational therapists deliver services funded by the NDIS. Services focus on promoting independence in activities of daily living and enablement of social and economic participation. These services may include functional capacity assessment and intervention; disability-related chronic disease management; prescription and implementation of assistive technology and/or environmental modifications; mental health interventions; positive behaviour support; driving assessments (when specifically trained to do so); and targeted, goal-focussed rehabilitation.

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NDIS Amendment (Securing the NDIS for Future Generations) Bill 2026

OTA welcomes the opportunity to provide feedback on the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 ('the Bill') to the Senate Community Affairs Legislation Committee.

The Bill initiates the most significant reforms to the National Disability Insurance Scheme (NDIS) since its inception. It restructures how the Scheme controls access, plans, budgets, pricing, and compliance. It gives legal force to a narrower Scheme focused on people with permanent and significant disability. It introduces tighter access rules, stronger funding controls, and expanded powers for the Minister and the National Disability Insurance Agency (NDIA). Collectively, these reforms represent a substantial departure from the NDIS as it was originally intended.

OTA supports the NDIS because it places people with disability at the centre of decision making, and enables access to the supports they need to live meaningful lives. OTA will continue to advocate for a strong, sustainable Scheme that is accessible, fair, and backed by a skilled workforce - so participants can achieve their goals and remain engaged in their communities.

The Bill, however, shifts the Scheme away from one that is participant-centred and focused on supports that are reasonable and necessary, to one focused on cost containment. This weakens participant's access, choice, and outcomes, and risks undermining the rights of persons with disability and Australia's obligations under the Convention on the Rights of Persons with Disabilities. OTA cautions that aspects of the Bill carry significant risks for participants, the occupational therapy workforce and the Scheme if not carefully amended.

The Bill introduces changes that will restrict participant access to occupational therapy supports. Tighter access criteria are likely to reduce the number of eligible participants and for those that remain eligible, may also narrow the range of services available to them. Reduced funding, tighter controls on plans and pricing, and increased compliance requirements will limit flexibility in service delivery. This undermines individual choice and the ability to tailor support to individual needs. As a result, participants may miss out on early and preventative supports, leading to poorer outcomes and increased demand for more intensive health services in the long term.

OTA is concerned that the changes resulting from the Bill would place significant pressure on the occupational therapy workforce. A stronger focus on cost containment, alongside reduced access and choice, is likely to limit demand certainty and create unstable working conditions for occupational therapists. This will discourage workforce growth and retention at a time when demand for occupational therapy services remains high.

Occupational Therapy Australia

Over time, the changes implemented through this Bill could lead to workforce shortages, reduced service availability, and longer wait times for participants. Without a strong, supported occupational therapy workforce, the Scheme cannot deliver for participants. Put simply, without occupational therapists, the NDIS cannot function.

OTA contends that a Scheme that is both sustainable and efficient, and fully utilises expertise of the occupational therapy workforce, will drive cost efficiency and long-term savings across the health sector. Occupational therapists help participants build independence and support self-management, prevent decline and escalation of health issues, enable participation in everyday life, and reduce reliance on more expensive clinical or repeat interventions.

The sustainability of the NDIS must not be defined merely in financial terms. A truly sustainable scheme must also deliver meaningful outcomes for participants, uphold their human rights, and support disabled people to live full, meaningful, and independent lives. In this submission, OTA has presented thirteen recommendations to improve the Bill to ensure it can support these objectives and ensure a genuinely sustainable NDIS for future generations.

Recommendations

OTA has 13 key recommendations for consideration by the Inquiry into this Bill:

1. **Redefining Functional Capacity:** OTA recommends deleting the proposal in section 9B of the Bill, which seeks to replace the definition of functional capacity with one that excludes the influence of a person's environmental and personal circumstances. Any definition of functional capacity must be consistent with the biopsychosocial model of disability which incorporates the role of environmental, contextual, and social factors in shaping a person's functional capacity.

2. **Qualified Assessors:** OTA recommends subsection 32L (4A) of the Bill be amended to require that NDIS rules provide that any person prescribed to undertake an assessment of functional capacity for the purposes of NDIS access and planning must be an appropriately qualified allied health professional, with occupational therapists explicitly recognised as included within that class.

3. **Parliamentary Scrutiny:** OTA recommends subsection 32L (4A) of the Bill be amended to provide that NDIS rules and any other instruments prescribing, modifying or replacing the framework for assessing functional capacity are subject to the same level of parliamentary scrutiny as applied to equivalent rules or instruments immediately before the commencement of the Bill, with that requirement applying to any future amendments or substitutions of those rules or instruments.

Occupational Therapy Australia

4. **Reference Groups:** OTA recommends that the Government amend the membership and terms of reference of the Technical Advisory Group to ensure ongoing expert allied health advice (including from occupational therapists) informs the design and implementation of NDIS reforms arising from the Bill, and establish a NDIS Therapy Supports Advisory Group to provide independent oversight of reform implementation.

5. **Human Oversight Safeguards:** OTA recommends section 59E of the Bill be amended to require that any standardised assessment tool or algorithm used for the purposes of NDIS eligibility or planning decisions must supplement and not displace clinical judgement, must be publicly documented and subject to independent evaluation and ongoing parliamentary scrutiny, and must not be used to take fully automated decisions in relation to eligibility or planning matters, with any partially automated decisions subject to mandatory human oversight and override mechanisms.

6. **Exhausting Alternative Supports:** OTA recommends sections 24(5), 25(1B), and 25A of the Bill be amended to reject the new permanence conditions requiring participants to demonstrate they have exhausted all appropriate treatment before gaining access to the Scheme, and to substitute a provision that preserves the existing approach to permanence while requiring the CEO to have regard to the nature and severity of the impairment, the person's individual circumstances, and clinical and allied health evidence, and prohibiting the CEO from determining that an impairment is not permanent solely on the basis that treatment exists or is available without regard to the person's individual circumstances.

7. **Access Protections:** OTA recommends section 101 of the Bill be amended to provide that nothing in the Bill operates to narrow access to the NDIS for people with disability who require supports. Additionally, the amendments made by Parts 8 and 9 of Schedule 1 must not result in the exit of a child aged 0–8 from the Scheme, or a reduction in funding under a child's plan unless an alternative evidence-based support program is fully implemented, accessible, and independently demonstrated to be capable of meeting the child's developmental and functional needs.

8. **Reassessment Safeguards:** OTA recommends item 27 of the Bill be amended to provide that nothing in the reassessment amendments operates to prevent participants from accessing timely and accessible reassessment pathways where their circumstances genuinely change; reassessment processes must be proportionate and must not impose unnecessary or repetitive burden on participants with lifelong or stable conditions; the CEO must not require evidence of functional capacity changes that cannot reasonably be expected given the nature of a participant's impairment, and accessible information about reassessment pathways must be made available to all participants.

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9. **Contactibility Safeguards:** OTA recommends section 87 of the Bill be amended to require that before suspending a participant's plan or revoking a participant's NDIS status on the ground of non-contactability, the NDIA must take all reasonable steps to determine whether non-response is attributable to the participant's disability, health status, or barriers in engaging with Agency communication systems, and must not proceed with suspension or revocation in such circumstances unless alternative communication channels have been exhausted, all available support persons have been engaged, and less restrictive measures have been considered.

10. **Protecting Core Supports:** OTA recommends sections 34(1)(d), 34(1E) and 17B of the Bill be amended to prohibit any ministerial determination reducing funding component amounts from applying to capacity building supports, social, civic or community participation supports, or evidence-based occupational therapy and allied health supports directed at functional capacity, independence or community inclusion, and to require that before any other funding reduction determination is made the Minister must table in Parliament an independent assessment of the clinical and functional impact of the proposed reduction, and be satisfied that it will not materially reduce participants' functional capacity, independence or community inclusion.

11. **Ministerial Limits:** OTA recommends the Bill be amended to repeal and substitute section 34A, to replace the broad ministerial power to impose class-wide funding reductions across support categories with a substantially constrained power that may only be exercised where supported by independent publicly available evidence, following consultation with participants, families, carers and sector peak bodies, after tabling a statement of reasons in Parliament at least 30 sitting days before commencement, and subject to a cap of 10% on any single reduction, a maximum duration of 12 months, and a prohibition on any reduction that would result in funding insufficient to meet a participant's individually assessed reasonable and necessary support needs.

12. **Pricing Transparency:** OTA recommends subsection 45C(17) of the Bill be amended to require that before making a pricing determination the Minister must request and have regard to advice from the Independent Health and Aged Care Pricing Authority (IHACPA) (or other independent body) and a dedicated Advisory Group that includes occupational therapists and relevant allied health and disability sector peak bodies, must publish that advice together with relevant data sets and a statement of reasons on the Agency's website, and must table the advice in Parliament, while retaining the Minister's final decision-making authority, to ensure that pricing outcomes are evidence-based, transparent, and informed by independent clinical and workforce expertise.

13. **Registration Alignment:** OTA recommends item 74 of the Bill be amended to require that in exercising compliance and enforcement powers the CEO and Commissioner must have regard to the existing regulatory obligations of registered

health practitioners under the Health Practitioner Regulation National Law, must avoid imposing duplicative or inconsistent compliance requirements, and must ensure that rules made under this Part are proportionate to integrity objectives and support rather than undermine allied health workforce sustainability, with the CEO required to review compliance requirements imposed on registered health practitioners at least every two years and to publish and table the results of that review in Parliament.

OTA also endorses the recommendations made by Allied Health Professionals Australia (AHPA) in their submission.

Occupational Therapy Australia

OTA Feedback

1. Access to the NDIS

A) Functional capacity and assessment design

The Bill introduces a stricter, standardised legislative concept of "substantially reduced functional capacity". Section 9B provides a new definition for functional capacity that excludes the influence of an individual's environment or personal circumstances.

This definition is inconsistent with the World Health Organization's International Classification of Functioning, Disability and Health (ICF), which recognises that disability is influenced by context and does not exist in isolation.

OTA is concerned that the definition means that future assessment process and tools may not capture the entire picture and context of the person. This entails a risk that participants' function won't be captured accurately, leading to significant consequences for planning and participant outcomes.

This definition also introduces a risk that some participants may face greater barriers to meeting the threshold for NDIS access. Individuals who rely on supports, assistive technology, or tailored environmental adjustments may appear to have higher functional capacity under this definition than they would without those supports in place. As a result, their underlying needs may be underestimated.

The Bill also empowers the NDIA to establish the assessment of functional capacity by determining the rules, criteria, classifications, and thresholds relevant to assessment. In effect, this creates a new framework through which the NDIA can prescribe how functional capacity is assessed, in a manner that is inconsistent with the existing occupational therapy approach to Functional Capacity Assessments (FCAs).

Occupational Therapists have long undertaken FCAs to understand the experiences and needs of individuals. FCAs are already an established, evidence based clinical practice, central to the occupational therapy profession and used well beyond the NDIS across all health sectors.

In 2003, Professor Jenny Strong explained the evaluation of functional capacity as "primarily a measure of activity and activity limitation or occupational performance of a

client, that is used to make recommendations for participation in work or the worker role while considering the person's impairment, environment and other influencing factors."[1]

Notably, in line with this existing definition, functional capacity assessments must continue to incorporate environmental and other influencing factors (i.e. a holistic view of a person), as these are essential to understanding how impairments affect real-world functioning, participation and support needs.

Lack of clinical input

The new framework for determining functional capacity does not meaningfully incorporate clinical judgement and professional expertise. In this way, it cannot be considered a true assessment of functional capacity - it is fundamentally at odds with the evidence-based principles underpinning existing practice.

As proposed, the Bill appropriates the concept of the FCA while redefining it into something materially different from accepted professional practice, undermining both the role and scope of occupational therapy. The new definition risks reinforcing misconceptions about the nature and purpose of FCAs, not only within the NDIS, but across the many sectors in which occupational therapists practice.

Occupational therapists are appropriately qualified and uniquely trained to conduct FCAs, drawing on professional judgement, observation across settings, and consideration of environmental and personal context.

Removing qualified professionals from the assessment process

Occupational therapists are uniquely trained to assess how impairments interact with an individual's environment, daily activities and participation, which is central to the intent of the NDIS. Excluding occupational therapists from assessor roles and the assessment process risks reducing functional assessment to a compliance exercise, undermining assessment quality, consistency and participant outcomes.

OTA does not support assessments of functional capacity being removed from qualified health professionals and transferred to an administrative decision-making role. This undermines the recognised clinical expertise of occupational therapists. Such a shift is not only dismissive of professional judgement, but also creates significant risks to participants, who rely on high-quality assessments to ensure they receive the support

[1] Gibson, L., & Strong, J. (2003). A conceptual framework of functional capacity evaluation for occupational therapy in work rehabilitation. *Australian Occupational Therapy Journal*, *50*(2), 64–71. https://doi.org/10.1046/j.1440-1630.2003.00323.x

they need. Redefining functional capacity primarily as an administrative or rules-based concept risks undermining assessment quality, fairness and participant outcomes.

The NDIA assessor workforce must include occupational therapists, so functional capacity can be assessed by appropriately qualified professionals with relevant clinical expertise. Assessments of functional capacity require professional judgement, not administrative interpretation.

Evolution of rules and criteria in the assessment process

The Bill confers significant power to define functional capacity through the assessment framework and decision-making processes established under it. Because these matters are to be set out in Rules (rather than in the primary legislation) they will not be subject to the same level of parliamentary scrutiny as a Bill.

OTA is concerned this enables future changes to assessment criteria, classifications and thresholds to be made through delegated legislation. Given the size and national significance of the NDIS, decisions of this magnitude should not rest with the Scheme alone.

Furthermore, assessment frameworks may evolve in ways that prioritise administrative thresholds over clinically informed judgement, rather than drawing on the expertise of the allied health workforce. This will negatively impact participant outcomes, as assessments are fundamental to ensuring the provision of appropriate supports and services.

Technical Advisory Committee

Given the depth of knowledge and clinical expertise that occupational therapists bring to assessments of functional capacity, their inclusion in key decision-making processes is essential. Their perspective is both practical and participant-centred. It reflects direct, ongoing engagement with individuals and families, as well as a strong foundation in clinical reasoning and best practice.

OTA strongly urges the inclusion of occupational therapists on the Technical Advisory Group. Their representation will help ensure that the committee's advice is informed by real-world experience, and support high-quality, consistent assessment processes across the Scheme. Occupational therapists would provide informed, balanced advice that reflects both evidence and frontline experience. It would also support better outcomes for NDIS participants by embedding occupational therapy expertise at the heart of decision-making.

Occupational Therapy Australia

Recommendation 1

Redefining Functional Capacity: OTA recommends deleting the proposal in section 9B of the Bill, which seeks to replace the definition of functional capacity with one that excludes the influence of a person's environmental and personal circumstances. Any definition of functional capacity must be consistent with the biopsychosocial model of disability which incorporates the role of environmental, contextual, and social factors in shaping a person's functional capacity.

Recommendation 2

Qualified Assessors: OTA recommends subsection 32L (4A) of the Bill be amended to require that NDIS rules provide that any person prescribed to undertake an assessment of functional capacity for the purposes of NDIS access and planning must be an appropriately qualified allied health professional, with occupational therapists explicitly recognised as included within that class.

Recommendation 3

Parliamentary Scrutiny: OTA recommends subsection 32L (4A) of the Bill be amended to provide that NDIS rules and any other instruments prescribing, modifying or replacing the framework for assessing functional capacity are subject to the same level of parliamentary scrutiny as applied to equivalent rules or instruments immediately before the commencement of the Bill, with that requirement applying to any future amendments or substitutions of those rules or instruments.

Recommendation 4

Reference Groups: OTA recommends that the Government amend the membership and terms of reference of the Technical Advisory Group to ensure ongoing expert allied health advice (including from occupational therapists) informs the design and implementation of NDIS reforms arising from the Bill, and establish a NDIS Therapy Supports Advisory Group to provide independent oversight of reform implementation.

B) Use of automation, algorithms and standardised tools

OTA has significant concerns with the increased reliance on automation, algorithms and standardised tools included in the Bill. While structured tools may assist administrative processes, OTA strongly opposes any approach that relies on fully automated or rules-based decision making to determine Scheme eligibility, access or funding; or displaces the professional judgement of appropriately qualified clinicians.

Functional capacity and support needs are inherently complex and contextual, and cannot be accurately or safely assessed through algorithmic or standardised models

alone. For example, many children have fluctuating capacity that changes with fatigue, sensory load, masking, and environment. Standardised reassessments rarely capture this complexity. A child who appears capable in a clinical setting may still struggle at home or school. If funding decisions rely too heavily on these assessments, children may lose supports they still need. This is particularly concerning for those with moderate but significant needs, who may not meet strict thresholds but rely on regular therapy to function day to day.

While algorithms may assist with cost containment in the short term, they are poorly suited to capturing the complexity and nuance of disability. Algorithms can make mistakes and poor assessments, leading to increased reassessments, exacerbation of symptoms, decreased functioning, and higher downstream support needs, all of which lead to higher costs in the medium-long term. In the absence of robust clinical oversight, they risk producing incomplete or distorted assessments of individual need.

Function-based assessment models in the Aged Care system have been poorly implemented, and have not consistently delivered fair or accurate outcomes. Older Australians have reported that standardised assessments often fail to capture the complexity of their needs, leading to people being assessed as more capable than they are in their daily lives, resulting in reduced supports. It has also created a system that can feel rigid, transactional, and disconnected from clinical judgement. These experiences highlight the risk of relying too heavily on standardised functional assessments without the involvement of qualified professionals, such as occupational therapists.

OTA is deeply concerned that the NDIA may adopt an approach similar to the Aged Care Integrated Assessment Tool, which has been widely criticised for poor validity and lack of transparency – failings that have resulted in demonstrably inappropriate outcomes for older Australians. This tool, which does not feature a human over-ride function, has received 834 confirmed review requests, and is now under review by the Ombudsman[2]. Replicating this model within the NDIS would pose serious risks to participant safety, equity, and scheme integrity.

OTA opposes a reliance on a single assessment tool or approach to determine functional capacity or NDIS eligibility, as none can reliably function as a "catch-all" assessment. The use of a standardised tool/approach as a primary eligibility gate risks inaccurate assessments, reduced efficiency, and poorer outcomes for participants.

Any standardised assessment must augment – not replace – professional expertise, and must be sufficiently flexible to accommodate individual circumstances. All components

[2] Davey, M. (2026, April 14). Labor aged care algorithm tool ombudsman investigation. The Guardian. https://www.theguardian.com/australia-news/2026/apr/14/labor-aged-care-algorithm-tool-ombudsman-investigation

must be transparent and open to scrutiny, including any algorithms, modelling assumptions, classification rules and training data.

Standardised assessment must also have built in opportunities, as a framework, to review, revolve and adapt over time. Assessments of functional capacity are an evolving, adaptive clinical practice which frequently respond to changes in evidence, context and individual presentation.

Additionally, any use of tools or digital systems must be transparent, subject to strong governance, and include mandatory human oversight and clear human override mechanisms, with assessments conducted or informed by qualified allied health professionals, including occupational therapists.

Recommendation 5

Human Oversight Safeguards: OTA recommends section 59E of the Bill be amended to require that any standardised assessment tool or algorithm used for the purposes of NDIS eligibility or planning decisions must supplement and not displace clinical judgement, must be publicly documented and subject to independent evaluation and ongoing parliamentary scrutiny, and must not be used to take fully automated decisions in relation to eligibility or planning matters, with any partially automated decisions subject to mandatory human oversight and override mechanisms.

C) Permanent Impairment

The Bill tightens the definition of permanent impairment, requiring participants to demonstrate they have exhausted "all appropriate treatment" before gaining access to the Scheme. OTA has significant concerns with this new requirement.

From a clinical perspective, this requirement is misaligned with how many disabilities present over a lifetime. Some conditions are clearly lifelong, even if symptoms can be managed or improved with support. For many conditions, there is no clear endpoint where a treatment is considered complete. Requiring ongoing proof of completed treatments risks creating a cycle of reassessment and documentation, rather than focusing on functional needs and the best interests of the participant. This change imposes a substantial evidentiary burden and introduces an expensive and time consuming process for participants seeking to access the NDIS.

The Bill also stipulates that supports can only be provided for needs that arise directly from an impairment that meet NDIS functional needs threshold under disability or early intervention requirements. OTA has concerns with this change, as many participants already struggle to access supports from secondary areas of disability. Occupational therapists understand the fundamental interconnectedness of impairments. Excluding

access to this funding for participants with concurrent issues such as mental health will result in poorer outcomes for participants.

OTA also holds concerns regarding the impact of this change on bodily autonomy and informed consent. Although the Bill contains a narrow exemption for treatments that are not medically appropriate, it does not adequately acknowledge the broader right of individuals to decline treatment based on factors such as trauma, risk, side effects, religious beliefs, past experiences, or the impact it may have on their quality of life. Participants' lawful right to decline treatment must not prejudice their access to the Scheme or to reasonable and necessary supports.

This change also raises concerns around equity and access. Not all individuals will have equal access to treatment options due to cost, location, or service availability. People in rural or underserved areas, or those facing long waitlists, may struggle to demonstrate they have pursued every treatment pathway. This could disproportionately affect already disadvantaged groups and create inconsistent access to the Scheme based on circumstances rather than need.

Recommendation 6

Exhausting Alternative Supports: OTA recommends sections 24(5), 25(1B), and 25A of the Bill be amended to reject the new permanence conditions requiring participants to demonstrate they have exhausted all appropriate treatment before gaining access to the Scheme, and to substitute a provision that preserves the existing approach to permanence while requiring the CEO to have regard to the nature and severity of the impairment, the person's individual circumstances, and clinical and allied health evidence, and prohibiting the CEO from determining that an impairment is not permanent solely on the basis that treatment exists or is available without regard to the person's individual circumstances.

D) Limiting access by shifting participants to other schemes or supports

The Bill reduces access to the NDIS for those receiving supports from other schemes, such as Thriving Kids. OTA contends that applicants can only be redirected to other schemes once those schemes are in place. For example, there are over 166,000 children aged 0-8 on the NDIS, many of whom are expected to transition to the Thriving Kids initiative – a scheme which is not yet fully established.

OTA is particularly concerned about the impact of these changes on children aged 0-8, as this would reduce access to early intervention and ongoing supports. Early and consistent therapy helps prevent challenges from escalating, and mitigates issues that are harder and more costly to address later. There is also a risk that tighter access will push families to wait until things reach crisis point, affecting workforce participation,

income, and overall family wellbeing. It will also put pressure on other systems, such as hospitals. If decisions do not reflect real-world functional impact, families may be left managing complex needs without adequate support.

Additionally, the Bill ensures that if a person's impairment is from a car accident or workplace injury and is covered by a compensation scheme, they will not qualify for the NDIS. OTA calls for the Government to establish a National Injury Insurance Scheme to assist with any changes to eligibility based on access to other services. This is in line with the recommendation of the Productivity Commission, which recommended the establishment of two schemes in August 2011: the National Disability Insurance Scheme (NDIS) and the National Injury Insurance Scheme (NIIS).

Achieving consistency across different Schemes is only possible if those schemes are operational and effective. OTA contends that no participant exits or funding reductions should occur unless and until alternative supports – including Thriving Kids – are fully implemented, accessible and demonstrably effective. Doing so too early carries significant risks for individuals and the broader system, including service gaps and disruption to care, increasing waitlists, and reducing service quality.

Moving participants out of the NDIS does not remove their needs. As outlined above, if alternative systems cannot adequately respond, those needs can escalate over time, leading to higher costs. A staged, carefully planned transition is essential to avoid unintended consequences and ensure people continue to receive the supports they rely on.

Recommendation 7

Access Protections: OTA recommends section 101 of the Bill be amended to provide that nothing in the Bill operates to narrow access to the NDIS for people with disability who require supports. Additionally, the amendments made by Parts 8 and 9 of Schedule 1 must not result in the exit of a child aged 0–8 from the Scheme, or a reduction in funding under a child's plan unless an alternative evidence-based support program is fully implemented, accessible, and independently demonstrated to be capable of meeting the child's developmental and functional needs.

2. Planning and Reassessments

A) Unscheduled Plan Reassessments

The Bill makes unscheduled plan reassessments significantly harder to obtain. OTA is concerned with this change, as accessible and timely pathways to plan reassessment are essential to participant safety, plan adequacy and scheme integrity. Reassessment

plays an important role in adjusting plans when there are significant changes to participant needs.

The recalibration of plans is often a necessary process for NDIS participants, as conditions can fluctuate over time. These reassessments can lead to plan alterations if they are inadequate, for example - if the client started with an inappropriately sized plan.

Disabled people may experience rapidly changing circumstances, including housing instability, sudden deterioration, and loss of informal supports. Making unscheduled plan reassessments more challenging to access may therefore reduce the scheme's responsiveness to genuine changes to participant's circumstances, and disadvantage people with lifelong, degenerative or fluctuating conditions.

This change also introduces inequity, as some participants may have the means or advocacy to able to access a reassessment easier than others. Some groups may require additional support to access reassessment, including to overcome advocacy limitations, communication barriers, or systemic disadvantages, such as Aboriginal and Torres Straight Islander people, CALD communities, people with communication or cognitive disability.

Recommendation 8

Reassessment Safeguards: OTA recommends item 27 of the Bill be amended to provide that nothing in the reassessment amendments operates to prevent participants from accessing timely and accessible reassessment pathways where their circumstances genuinely change; reassessment processes must be proportionate and must not impose unnecessary or repetitive burden on participants with lifelong or stable conditions; the CEO must not require evidence of functional capacity changes that cannot reasonably be expected given the nature of a participant's impairment, and accessible information about reassessment pathways must be made available to all participants.

B) Ending rollover of plans (and funding)

The Bill will require plans to now have legislated end dates (from February 2027), after which they automatically renew at the previously assessed level, with no rollover of unspent funds.

These changes may result in unintended negative consequences. Plans can be unspent for a number of reasons, including for reasons outsides the participants control, for example - the relevant services not being accessible to the participant due to waitlists within existing markets. Participants should not be penalised for having to wait beyond their existing funding period. This "use it or lose it" mentality is not relevant in the context

of patient care, and introduces concerns around continuity of care and a participant-centred approach.

There are some instances where reducing reassessments for lifelong conditions will have a positive impact. The reassessment process can also place a considerable burden on families. Parents frequently describe the emotional strain of needing to repeatedly justify their child's disability, often in deficit-focused ways. This is alongside the practical demands of organising reports, attending appointments, and managing uncertainty about future supports. For families already navigating complex needs, this contributes to stress and burnout, and can undermine a strengths-based, neuroaffirming approach to care.

C) Suspending plans due to non-communication

The Bill allows for the suspension, and potentially the revocation, of participant plans where a person cannot be contacted for 180 days. This creates real risks for people who are harder to reach because of their disability, housing instability, or changing life circumstances. A blanket timeframe does not account for the complex and often unpredictable nature of many participants' lives.

OTA has significant concerns about this change. It raises serious safeguarding issues and could lead to unintended harm for people who already face barriers to engagement. Losing access to a plan in these circumstances risks disrupting essential supports, reducing independence, and increasing vulnerability.

Providers may be unable to contact an NDIS participant for a range of reasons that are often outside the participant's control. These can include communication barriers such as language differences or reliance on assistive supports, as well as social disengagement. Cognitive functioning challenges may affect a person's ability to respond to contact. In addition, trauma, safety concerns, or acute mental health issues may reduce a person's capacity or willingness to engage.

These risks are heightened by ongoing issues with communication practices. Many participants have already advised the NDIA of their preferred communication methods. Despite this, people continue to experience contact that is inconsistent, unplanned or inaccessible. Before any suspension or revocation is considered, there must be stronger safeguards to ensure communication is appropriate, inclusive, and responsive to individual needs.

Recommendation 9

Contactibility Safeguards: OTA recommends section 87 of the Bill be amended to require that before suspending a participant's plan or revoking a participant's NDIS status on the

ground of non-contactability, the NDIA must take all reasonable steps to determine whether non-response is attributable to the participant's disability, health status, or barriers in engaging with Agency communication systems, and must not proceed with suspension or revocation in such circumstances unless alternative communication channels have been exhausted, all available support persons have been engaged, and less restrictive measures have been considered.

3. Support Funding and Budgets

A) Reasonable and necessary criteria

In determining supports, the Bill replaces "reasonable and necessary" criteria with one that must also weigh scheme sustainability and equitable distribution across participants. It also enables the use of detailed rules and determinations to set limits on supports. This includes caps on overall funding, the intensity of supports, and worker-to-participant ratios, either for specific supports or for different participant groups.

This change risks causing significant harm. Funding supports below a “reasonable and necessary” level undermine the core principles of the Scheme. This criteria has traditionally allowed for a person-centered, evidence-based judgement, and facilitated individualised support tailored to a participant’s needs. Funding supports below this level risks participants being unable to receive the supports they need and attain their rights as a person with disability.

The changes will also reduce transparency and accountability, and could allow for decisions to be influenced by cost containment rather than participant need. There is a risk that “reasonable and necessary” becomes more about what the system can afford, rather than what participants genuinely need to live safely, independently, and with dignity.

The changes are also likely to reduce access to occupational therapy supports. A stronger focus on cost control, combined with reduced access and choice, is likely to reduce demand certainty and destabilise the occupational therapy workforce. Without a well-supported workforce, the Scheme cannot deliver for participants.

OTA is also strongly concerned about the ability to apply universal limits to support categories in plans, even when the result of this means participants will receive less than what is deemed reasonable and necessary. This new mechanism would effectively allow for funding reductions across groups of supports.

Doing so risks undermining Australia’s commitment to a rights-based NDIS, shifting costs to families and informal carers, and increasing isolation and exclusion for people with disability. Limiting supports beyond accessed need is inconsistent with the

Occupational Therapy Australia

Scheme's objectives, and with Australia's broader human rights obligations to support dignity, autonomy and community inclusion. In line with these obligations, OTA does not support restricting therapy supports to levels below assessed need.

B) Capacity Building Supports

OTA strongly opposes any reductions to capacity building supports under the NDIS. These supports are fundamental to enabling independence, participation and inclusion in everyday life, supporting people with disability to exercise their rights on an equal basis with others, and delivering evidence based occupational therapy and allied health supports that reduce longer term support needs.

Capacity building supports are essential for daily living, independence and community participation and should not be reduced or conflated with daily activity supports. Through capability building supports in the NDIS, occupational therapy supports people to participate in everyday life.

OTA strongly rejects the claim in the Bill's Explanatory Note that "in most allied health disciplines there is little research evidence to support high volumes of therapy on a long-term basis". This overlooks a substantial body of evidence[3] [4] [5] [6] [7] showing that longer-term, higher-intensity allied health interventions can deliver meaningful outcomes for people with complex and persistent needs.

In many areas of practice, sustained therapy is not only beneficial but necessary to maintain function, prevent decline, and support participation. OTA is happy to provide additional information to support this claim on request. It is also important to note that all therapy supports are guided by clear clinical reasoning, structured treatment planning, and co-designed goals with the individual or family. This ensures therapy

[3] Grabanski, J. (2023). Occupational therapy in long term care. In *StatPearls*. StatPearls Publishing. https://www.ncbi.nlm.nih.gov/books/NBK537068/

[4] Rich, T. L., Silva, A. M., O'Donnell, F., Theis-Mahon, N., Marth, L. A., & Saylor, E. P. (2024). Exploring maintenance rehabilitation in adults with chronic conditions: a scoping review of the literature. *Disability and Rehabilitation*, 1–11. https://doi.org/10.1080/09638288.2024.2417771

[5] Steultjens, E. M. J., Dekker, J., Bouter, L. M., Leemrijse, C. J., & van den Ende, C. H. M. (2005). Evidence of the efficacy of occupational therapy in different conditions: an overview of systematic reviews. *Clinical Rehabilitation*, *19*(3), 247–254. https://doi.org/10.1191/0269215505cr870oa

[6] Clark, F., Azen, S. P., Carlson, M., Mandel, D., LaBree, L., Hay, J., Zemke, R., Jackson, J., & Lipson, L. (2001). Embedding health-promoting changes into the daily lives of independent-living older adults: Long-term follow-up of occupational therapy intervention. *The Journals of Gerontology Series B: Psychological Sciences and Social Sciences*, *56*(1), P60–P63. https://doi.org/10.1093/geronb/56.1.p60

[7] Simpson, W., Cowie, L., Wilkinson, L., Lock, N., & Monteith, G. (2010). The effectiveness of a community intensive therapy team on young people's mental health outcomes. Child and Adolescent Mental Health, 15(4), 217–223. https://doi.org/10.1111/j.1475-3588.2009.00546.x

reflects both what is needed and what is effective and purposeful. As a result, therapy supports are not intended to continue indefinitely.

The claim made in the Explanatory Note also fails to reflect the individualised nature of allied health care. Effective therapy is not defined by arbitrary limits on volume or duration, but by its alignment with a participant's goals, needs, and context. For many people, outcomes are incremental and achieved over time. Discontinuing or restricting therapy prematurely can result in loss of gains, increased reliance on informal supports, and higher long-term system costs.

Proceeding with cuts to capacity building supports will have a devastating impact on the occupational therapist workforce. OTA rejects the claim made in the Impact Analysis that "the impact on the allied health or therapy provider market is not expected to create significant employment or provider viability shocks".

Any major changes to cuts to capacity building supports will lead exits of occupational therapists from the NDIS. Occupational therapists already operate in a constrained market, with high demand, workforce shortages, and increasing administrative burden. Even modest shifts in funding settings can have outsized effects in a tight labour market.

Reduced demand certainty and growing policy instability will also affect workforce retention and attraction. Like many allied health professionals, occupational therapists need stable and predictable funding environments to sustain their practice. If those conditions become less secure, therapists may leave the Scheme or the profession altogether, or shift to other sectors. This will further constrain supply and reduce access for participants.

C) Social, Civic, and Community Participation

OTA recognises that participation is central to participants living independent, meaningful, and fulfilling lives. Social, civic, and community engagement supports enable people to build relationships, contribute to their communities, and pursue their goals. The proposed 50% reduction to these supports would significantly limit participants' ability to engage in everyday life. It risks isolating people and undermining the very outcomes the NDIS is designed to achieve.

Access to community participation is not optional. It is a fundamental human right and a key determinant of health and wellbeing. Cutting this support in half will not only reduce quality of life, but also increase the risk of social isolation, poorer health outcomes, and greater long-term reliance on more intensive supports.

The impact will not be felt equally, for example - Australians with visual impairment, psychosocial disability, and Down syndrome are likely to be disproportionately affected[8]. These groups often rely on tailored supports to access community spaces, build confidence, and maintain social connections. Halving available supports is an unfair and blunt measure that will entrench disadvantage, rather than promote inclusion and participation.

Recommendation 10

Protecting Core Supports: OTA recommends sections 34(1)(d), 34(1E) and 17B of the Bill be amended to prohibit any ministerial determination reducing funding component amounts from applying to capacity building supports, social, civic or community participation supports, or evidence-based occupational therapy and allied health supports directed at functional capacity, independence or community inclusion, and to require that before any other funding reduction determination is made the Minister must table in Parliament an independent assessment of the clinical and functional impact of the proposed reduction, and be satisfied that it will not materially reduce participants' functional capacity, independence or community inclusion.

4. Ministerial Powers

The Bill grants the Minister extraordinarily broad powers over the NDIS. Section 34A grants expansive powers to the Minister to impose broad percentage-based reductions to categories of participant supports. These reductions may occur without proper safeguards, including individual reassessment and meaningful parliamentary scrutiny. OTA has concerns about the breadth of these powers, which represent a substantial shift in accountability, concentrating control in the executive, and reducing parliamentary oversight of major scheme decisions. It represents a fundamental shift to the provision of support, from that based on individual need to that based on financial cost.

As outlined previously, OTA is concerned that the Bill expands the Minister's power to make support determinations that can reduce or limit funding for classes or categories of supports, rather than decisions being based on individual need. When combined with the increased reliance on standardised assessment tools, algorithms or automated processes, this creates a pathway for system wide funding reductions – potentially including therapy supports such as occupational therapy – without adequate clinical oversight or consideration to participant's assessed needs.

[8] Giummarra, M. J., Randjelovic, I., & O'Brien, L. (2022). Interventions for social and community participation for adults with intellectual disability, psychosocial disability or on the autism spectrum: An umbrella systematic review. *Frontiers in Rehabilitation Sciences*, 3. https://doi.org/10.3389/fresc.2022.935473

Occupational Therapy Australia

Notably, these determinations may be made through legislative instruments with limited parliamentary scrutiny, bypassing professional judgement and weakening the individualised, needs-based design of the NDIS. The combined effect of expanded ministerial determination powers and algorithm-driven assessment risks undermining transparency, participant rights and the quality and safety of Scheme outcomes.

Broad reduction powers could also disproportionately impact First Nations participants, rural and remote participants, women, carers, people with psychosocial disability, participants requiring high levels of informal support, and children requiring early intervention.

Responsibility for pricing decisions will transfer from NDIA to the Minister

Under the Bill, pricing for agency-managed and plan-managed supports shifts from an independent, technical function of the NDIA to a direct Ministerial decision. This represents a fundamental change to how prices are set. Moving this responsibility to the Minister introduces a clear risk of politicising what has meant to operate as an evidence-based process. It also reduces the level of institutional separation that supports consistent, transparent, and technically robust pricing decisions.

OTA calls for stronger safeguards and greater transparency in how prices are determined. This should include clear visibility of the data sources and methodologies used, as well as structured input from peak bodies such as OTA.

Pricing decisions must also draw on the expertise of an independent body, such as the Independent Health and Aged Care Pricing Authority (IHACPA), and a Government advisory group that includes occupational therapists and sector representatives.

OTA will continue to advocate for pricing and policy settings that support a sustainable workforce, high-quality services, and strong outcomes for participants. These elements are critical to the long-term success of the scheme. Current price limits do not reflect the real and rising costs of delivering high-quality, evidence-based, participant-centred occupational therapy supports. OTA's submission to the 2026 Annual Pricing Review contains further information on pricing, including recommendations to stabilise and strengthen the occupational therapy market under the NDIS.

Transitional rules

The Bill also grants broad transitional rule-making powers to the Minister, including the ability to temporarily modify the operation of the Scheme. OTA is concerned that these powers are highly discretionary, may significantly affect participant rights, and are subject to limited parliamentary scrutiny.

While the Bill provides that these powers cannot directly amend the Act or create offences, they may still have a substantial practical impact on participants. Given the scale of the proposed reforms, these transitional arrangements deserve greater transparency, independent oversight, public consultation, and stronger parliamentary accountability.

Recommendation 11

Ministerial Limits: OTA recommends the Bill be amended to repeal and substitute section 34A, to replace the broad ministerial power to impose class-wide funding reductions across support categories with a substantially constrained power that may only be exercised where supported by independent publicly available evidence, following consultation with participants, families, carers and sector peak bodies, after tabling a statement of reasons in Parliament at least 30 sitting days before commencement, and subject to a cap of 10% on any single reduction, a maximum duration of 12 months, and a prohibition on any reduction that would result in funding insufficient to meet a participant's individually assessed reasonable and necessary support needs.

Recommendation 12

Pricing Transparency: OTA recommends subsection 45C(17) of the Bill be amended to require that before making a pricing determination the Minister must request and have regard to advice from the Independent Health and Aged Care Pricing Authority (IHACPA) (or other independent body) and a dedicated Advisory Group that includes occupational therapists and relevant allied health and disability sector peak bodies, must publish that advice together with relevant data sets and a statement of reasons on the Agency's website, and must table the advice in Parliament, while retaining the Minister's final decision-making authority, to ensure that pricing outcomes are evidence-based, transparent, and informed by independent clinical and workforce expertise.

5. Compliance, Fraud and Administration

The Bill contains measures to improve compliance and reduce fraud, including shorter claim lodgement windows (reduced from two years to 90 days in some cases), stronger record-keeping obligations, civil penalties for providers and nominees, and expanded information-gathering powers. The Bill also authorises automated decision-making by the NDIA for payment approvals and plan renewals, with the Minister able to expand this to further decision types via future instruments.

OTA welcomes the Government's efforts to take stronger measures to identify and stop fraud and serious organised crime in the NDIS. This will deliver better outcomes for participants and a more reliable framework for service providers. However, OTA is concerned the changes will increase administrative pressures on self-managed

participants, families, smaller providers and plan managers. It is important that enhanced fraud and compliance measures do not unnecessarily restrict legitimate providers.

Reforms should improve payment transparency in ways that do not impose disproportionate administrative burden on providers, ensure meaningful allied health input into framework planning and assessment design, and subject major pricing and transitional decisions to transparent, consultative, and independently informed processes.

OTA encourages Government to consider integrity measures that explicitly recognise workforce development and clinical supervision as protective factors for early career occupational therapist practitioners.

Reduction in claim times

The Bill proposes to reduce the claims period from two years to 90 days. OTA has significant concerns about this change. Delays in lodging claims are often outside a provider's control and can extend well beyond a 90-day window. Providers regularly report issues with existing claim systems, including technical barriers and delays that make it difficult to submit claims on time. A shorter timeframe risks compounding these existing challenges.

This change must be supported by clear assurance that the NDIA has systems in place to enable timely and reliable claims processing. Without this, there is a real risk that valid claims will go unpaid. This directly affects cash flow and sustainability for providers, and may ultimately impact service continuity and access for participants.

Increased penalties

The Bill introduces a broader range of penalties across NDIS administration. These penalties are significant, and in some cases, they may be disproportionate. This creates a high-risk regulatory environment, where even genuine compliance errors could lead to serious financial consequences.

OTA contends that the scale of these penalties is overly punitive, particularly for smaller or not-for-profit providers. Higher penalties, combined with broader scope and easier enforcement, may deter participation in the NDIS market. This risks reducing provider supply at a time when demand remains high.

A stronger focus on enforcement, without equal attention to service accessibility, adds pressure to a system already undergoing major reform. When combined with other changes, this may contribute to a more restrictive NDIS overall.

OTA calls for penalties that are proportionate and supported by clear safeguards. This will help protect participants, nominees, and providers from unfair outcomes and unintended consequences.

Record keeping requirements

The Bill expands obligations on providers to collect, retain, and produce detailed records, alongside stronger compliance and audit powers. While these measures aim to improve oversight, they risk contributing to a more bureaucratic and less flexible NDIS.

OTA supports strong record keeping. It underpins safe, high-quality occupational therapy practice and supports continuity of care for participants. Clear and accurate records also strengthen accountability, inform clinical reasoning, and provide evidence of services delivered.

However, increased record keeping requirements and expanded information gathering powers carry risks. These changes may create a significant administrative burden, particularly for smaller organisations. They may also require additional investment in systems, staff training, and compliance processes, shifting provider effort away from frontline service delivery. Smaller and not-for-profit providers may find it especially difficult to meet these requirements without disproportionate cost and effort.

Registration of Providers

The Bill proposes to redefine who is considered an 'NDIS provider', with the detail to be set out in future rules (proposed section 10C). This change is intended to expand the number of providers required to be registered under the scheme. While this may support greater consistency and oversight, it introduces uncertainty about how the new framework will operate in practice, and the level of regulatory burden it will impose across the sector.

OTA recognises the value of registration in principle, particularly where it strengthens quality and safeguards participants. However, concerns remain about the cost, duplication, and proportionality of the current model. Registration is a resource-intensive process. It requires significant administrative effort and ongoing compliance, including external audits that come at a considerable financial cost. For highly regulated professions such as occupational therapy, this level of duplication is difficult to justify. Additional layers of regulation risk diverting time and resources away from direct service delivery.

Registration also places a disproportionate burden on private providers. In regional, rural, and remote areas, these are often the primary service providers. This means the

burden of registration will fall most heavily on those supporting people with higher needs and fewer options.

Occupational therapists are already subject to strict legal and professional requirements. They must be registered with the Australian Health Practitioner Regulation Agency (AHPRA) under the National Registration and Accreditation Scheme (NRAS) to practise in Australia. This framework provides strong and established safeguards around professional standards, conduct, and ongoing competence. Any future approach to NDIS registration must recognise this existing oversight and avoid unnecessary duplication.

Reform of the registration model must also be grounded in the shortcomings of the current system. This includes duplicated regulatory processes, the administrative burden they create, and the high cost of third-party audits. A more streamlined, risk-based approach is needed. This should reduce unnecessary compliance for established professions while maintaining appropriate safeguards for participants.

Recommendation 13

Registration Alignment: OTA recommends item 74 of the Bill be amended to require that in exercising compliance and enforcement powers the CEO and Commissioner must have regard to the existing regulatory obligations of registered health practitioners under the Health Practitioner Regulation National Law, must avoid imposing duplicative or inconsistent compliance requirements, and must ensure that rules made under this Part are proportionate to integrity objectives and support rather than undermine allied health workforce sustainability, with the CEO required to review compliance requirements imposed on registered health practitioners at least every two years and to publish and table the results of that review in Parliament.

Occupational Therapy Australia

OTA Submissions

In 2026, OTA prepared the following submissions related to the NDIS Reforms and the NDIS Amendment Bill:

- 2026 Annual Pricing Review Submission
- 2026 OTA NDIS Rules – New Framework Planning Submission
- 2026 OTA Thriving Kids Submission

Please visit https://otaus.com.au/ota-policy-submissions to view all our OTA submissions.

Conclusion

OTA welcomes the opportunity to provide this submission to this Inquiry into the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026. OTA remains available to provide further briefing to the committee and to any Member of Parliament or Senator regarding its submission. We can be contacted at policy@otaus.com.au



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