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

Mind Australia submission
Senate Community Affairs Legislation Committee
May 2026

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Mind Australia supports

THE HAVEN FOUNDATION
Providing Housing & Assistance

One DOOR Mental Health

About Mind Australia

Mind Australia is one of Australia's largest specialist providers of community mental health and psychosocial disability services. We have been supporting people dealing with mental health challenges—as well as their families, friends, and carers—for almost 50 years. Each year we provide services to around 25,000 people.

Over the history of our organisation, Mind has:

- Delivered specialist psychosocial and community-based mental health support, with lived experience at the heart of everything we do.
- Advocated for and with the people who use our services.
- Provided supported housing through the Haven Foundation.
- Provided NDIS funded supports to people with psychosocial disability through support coordination, allied health and the Haven.
- Provided a broad suite of youth mental health services.
- Supported people and families across NSW through One Door Mental Health.
- Been defined by the diversity of our experience and our commitment to showing up for people where they are, in their community.

Mind makes this submission from our perspective as a service provider (and advocate) to people with psychosocial disability and their families, carers and kin.

Mind Australia is also a member of the Australian Psychosocial Alliance and Mental Health Australia, and supports their submissions.

As a service provider Mind also has concerns in terms of pricing and member registration and we support the submissions of National Disability Services in this regard.

In short: this Bill will harm the wrong people

The NDIS needs reform. Costs are unsustainable and the scheme has drifted from its original intent. While we accept this, what we do not accept is a reform package that imposes the harshest consequences on the people who are least responsible for the cost blow out.

> ***People with psychosocial disability are already underrepresented in the NDIS — by almost 5,000 people compared to original estimates. They did not cause this problem. This Bill risks making them pay for it anyway.***

This Bill was drafted with insufficient consultation. It hands the Minister and the NDIA sweeping new powers — over eligibility definitions, support categories, and plan management — with few meaningful safeguards. It embeds a definition of disability and permanency that has never worked for psychosocial disability, and that a number of separate reviews (Tune Review 2019, NDIS Review 2023) have already identified as broken.

While we do not believe that the Government intended to draft a Bill that specifically discriminates against people with a psychosocial disability, this will be the consequence if the Bill is passed in its current form.

Amongst the worst outcomes for this group is that significant numbers of them are likely to be excluded from the NDIS as a consequence of these reforms, when there are very few other options available to them for support at present. There is no agreement between the Commonwealth and States to provide Foundational Supports outside of the Scheme for this group, and there is already documented unmet need for around 230,000 people with severe mental health issues and psychosocial disability[1]

Proposed cuts to social and community participation with no right of review will also further disadvantage this group.

As such we are calling for the Bill to be significantly amended, with specific protections incorporated for people with psychosocial disability

We believe there are better mechanisms for cost savings within the Scheme, and these should be properly considered before passage of this Bill.

[1] Health Policy Analysis (2024), *Analysis of unmet need for psychosocial supports outside of the National Disability Insurance Scheme*.

Our specific concerns

1. The functional capacity definition (section 9B) is unworkable for psychosocial disability

Section 9B defines functional capacity, in relation to an activity, as the person's ability to undertake the activity:

a) Without assistance from other people, assistive technology or modifications; and
b) In a context that excludes, as far as possible, the impact of the person's environment and personal circumstances.

For physical disability, this may be a coherent definition. For psychosocial disability, it is close to meaningless. Psychosocial disability, by definition, is the interaction between a person's mental health condition and the social environment that presents barriers to their participation. You cannot assess it by stripping out that environment.

Consider a person whose functional incapacity has contributed to long-term homelessness, unemployment, and social isolation. Under 9B, an assessor could conclude that their difficulties are consequences of homelessness rather than indicators of disability. That is **exactly backwards** — and it is the error we already see in practice.

The NDIA does not currently have an assessment tool capable of distinguishing — accurately or fairly — between functional limitations that caused social disadvantage and social disadvantage that contributed to functional limitations. Until it does, section 9B in the proposed form will be used to deny access to people with psychosocial disability who genuinely qualify.

Emerging evidence from research undertaken by the University of Sydney suggests that people with psychosocial disability who live in socially disadvantaged/remote areas are already less likely to be found eligible than other groups. Proposed changes to the legislation are likely to increase this inequity[2].

Rec. 1

Introduce psychosocial disability-specific rules before implementation

Prior to implementation the NDIA should develop: (a) a definition of functional capacity specific to psychosocial disability; (b) a validated assessment tool capable of measuring it. The legislation should also be amended to explicitly require that environment and personal circumstances be taken into account where the primary disability is psychosocial.

[2] University of Sydney (n.d.). National eligibility patterns in access to the NDIS for people with psychosocial disability between 2013-2025. Draft findings.

2. The permanency test (section 24 (4) and 25A) entrenches an approach that systematically excludes people with psychosocial disability

The new permanency definition — requiring that 'all appropriate treatments' be exhausted — mirrors processes the NDIA has already been using. It is not new and is the approach documented in the report 'Access Denied' published by the Australian Psychosocial Alliance[3]. It has the consequence of systematically excluding people with complex and long-term psychosocial disability.

Mental illness is not linear. Two people with the same diagnosis can have vastly different functional limitations.

'Exhausting all treatments' is also technically impossible. The evidence base is broad, treatments are highly individual, and some carry serious risks — including ECT and clozapine — that people should not be compelled to try before accessing support. In the APA report there are documented cases where NDIS assessors told potential participants that refusing ECT or clozapine was grounds for denial or delay for access to the scheme. That is not an unusual outcome and is what this approach produces.

In a context where 'treatments' are undefined, it is possible to use any apparent 'treatment' to deny access to the Scheme.

The new clause is likely to be inequitable for people who live in rural and remote areas who may be unable to access treatments and particularly difficult for Aboriginal and Torres Strait Australians with psychosocial disability, who live in these areas.

The impact of this measure will be to reduce the numbers of people with psychosocial disability currently in the Scheme and reduce the numbers of new people entering the Scheme. While it will contribute to the sustainability agenda, it is harsh on current participants who will need to meet these higher criteria for access. Their exclusion will increase demand on existing mental health services.

We also note that the 2019 amendments to the Act, introduced as a consequence of the Tune Review[4], specifically Recommendation 8, were designed to move away from a diagnosis-and-treatment framework for psychosocial disability. Those changes were never properly implemented. This Bill entrenches the problem rather than solving it.

Rec. 2	**Exclude psychosocial disability from the treatment-based permanency test** The legislation should explicitly state that section 25A's definition of treatment does not apply to the assessment of permanency for psychosocial disability. A separate permanency provision — focused on functional incapacity and the experience of mental illness, not on treatment history — should be developed in consultation with people with lived experience and specialist providers.

[3] Australian Psychosocial Alliance (2025) *Access Denied: Psychosocial Disability and the NDIS*.
[4] 2019 review of the NDIS Act and the new NDIS Participant Service Guarantee

3. Section 34A gives the Minister unchecked power to cut supports without safeguards

Section 34A allows the Minister to make determinations reducing funding for categories of support. The regulatory impact statement acknowledges that proposed cuts to social and community participation will disproportionately affect people with psychosocial disability. This is not a 'nice to have' for this group, it is how they sustain their mental health and avoid crisis.

There are no adequate safeguards to model or mitigate these disproportionate impacts before a determination takes effect. And with plan reassessment rights being stripped back under Schedule 1, people who experience harm from a support reduction will have no mechanism to have that addressed.

The proposed restrictions to plan reassessments (Schedule 1, parts 2 and 5) also mean that rights to review are restricted. So, if a person experiences an unintended consequence of a reduction in expenditure, they not have any means to have this addressed. Of particular concern are those who may be using their budgets flexibly across categories of Core budget funding, to respond to fluctuating needs.

This provision is also particularly concerning to service providers as cuts to packages with no right of review can expose service providers to risks around duty of care. For example, the service provider still has a duty of care to a participant even though the package allowed may be insufficient to allow them to do this. This is currently an issue within the Scheme but removing the right to appeal exacerbates this risk significantly with a range of unintended consequences.

Rec. 3	**Undertake impact modelling and individual safeguards before support reductions take effect** Any determination under section 34A must be accompanied by publicly available modelling of disproportionate impacts by disability type, and must include provisions for individual redress where a support reduction causes significant harm. Section 34A(3) could be extended to consider more than participant safety including dignity, social participation and independence (ie the existing principles of the existing NDIS Act)

4. You cannot reduce NDIS access without first building alternatives

There are currently **493,600 people** with medium to severe mental health issues whose needs are unmet outside the NDIS. And the community mental health system — which should be absorbing people who do not meet NDIS eligibility — has been systematically underfunded for years.

> ***Tightening NDIS access without first rebuilding the supports that sit below it does not save money. It shifts costs — to hospitals, to emergency services, to unpaid carers, and to people in crisis.***

Any legislation that contracts NDIS eligibility must be conditional on the establishment of adequate

alternative supports. Currently, those supports do not exist at the scale required. This Bill makes no provision for them.

Rec. 4	**Accelerate the design and implementation of alternative supports (foundational supports) prior to the implementation of the legislation** At present the timeline for legislative change is well ahead of the design and implementation of alternative supports for people who are not eligible for the NDIS. Development of foundational supports and other psychosocial reform measures should be accelerated to ensure that the large numbers of people who will be excluded from the NDIS have alternative forms of support.

5. The NDIA is not equipped to implement these changes well — and history shows it

The 2019 amendments to the NDIS Act were designed to improve outcomes for people with psychosocial disability. However, the NDIS has reverted to processes that are overly reliant on a medical model and on the specific diagnosis of types of mental illness (e.g. schizophrenia, borderline personality disorder) which is often unhelpful in determining actual levels of disability and functional impairment. The same failure is now baked into this Bill — which relies heavily on rules and guidelines to be developed by the NDIA after the fact, with minimal legislative oversight.

In addition the proposed Technical Advisory Group — which will advise on eligibility definitions — is not required to include psychosocial expertise. That is not an oversight. It is a structural failure that will produce the wrong outcomes.

Rec. 5	**Mandate psychosocial expertise in the Technical Advisory Group** The legislation should specify that the Technical Advisory Group must include members with expertise in psychosocial disability — both clinical expertise and expertise drawn from lived experience. The group should be required to consider how definitions apply to psychosocial disability separately from other disability types, and to publish its analysis.

Conclusion

Mind Australia has supported thousands of Australians with psychosocial disability to live meaningful lives. We do this by focusing on walking alongside people with lived experience, their family, carers and kin through their journey to a fulfilling life. We understand what happens when policy treats this population as an afterthought which unfortunately happens all too frequently.

This Bill is flawed in ways that will cause real harm to people with psychosocial disability.

The need for a psychosocial stream or approach within the NDIS has been identified as integral to getting assessment and planning right since the very earliest days of the scheme, and reiterated in the 2023 NDIS review.

We urge the Committee to support our recommendations and call on the Government to consult, revise and get this right.

Mind Australia

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Mind Australia is one of the largest providers of community-managed psychosocial services in Australia with a range of residential, mobile outreach, centre-based and online services

We have providing mental health and wellbeing support to people, and their families, friends and carers, for more than 45 years.

Mind Australia supports

THE HAVEN FOUNDATION
Providing Housing & Assistance

One DOOR Mental Health

Mind Australia, with One Door and The Haven Foundation, collectively combine more than 80 years of evidence-based service delivery, research and advocacy.

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