



**Belong Network & Disability Resources Centre Inc
Submission to
Community Affairs Legislation Committee Inquiry into the
Getting the NDIS Back on Track Bill 2024**

Belong is the membership arm of Disability Resources Centre, the values-led advocacy and campaigning organisation established in 1981 and based in Victoria.

Belong is a radically inclusive disability network bringing together people from diverse cultures, ages, gender identity, geography and disability experience.

Belong members are extremely concerned about the implications of this bill and the high level of trust it requires from the disability community; trust that has not yet been earned. We believe that it does not offer adequate protections to NDIS participants and that it represents a backwards step in the evolution of the scheme. We urge the Committee to hear our concerns.

Summary of Points:

- (1) A Commitment to Codesign and Inclusive Practices**
- (2) Needs Assessments to Determine Funding**
- (3) Reasonable and Necessary Budget and NDIS Supports**
- (4) NDIS Plan Budget Changes**
- (5) APTOS Unsuitable for Determining NDIS Supports**
- (6) Selective Reference to the UNCRPD**
- (7) Changes to Eligibility and Access**
- (8) Increased Powers of the NDIA**
- (9) Strengthened Quality and Safeguarding Measures**
- (10) Challenges and Reviews of Processes and Decisions**
- (11) Over-reliance on Delegated Legislation**
- (12) Recommendations**

1. Commitment to Codesign and Inclusive Practices Must be Included in the Legislation

The Australian Government has promised that the development of new tools and processes for the NDIS, including early intervention pathways and other rules for upcoming plans, will be codesigned with people with disability and our representative organisations. *Belong* members note significant fear, uncertainty and distrust about the proposed changes. It's crucial that these commitments to meaningful co-design with people with disability are written into this bill and any future legislative changes and a commitment to Inclusive Practices should underpin every aspect of the NDIS.

People with disabilities must lead the way in designing and implementing any changes to the NDIS. We are deeply concerned by the lack of codesign involved in drafting this Bill. Likewise, *Belong* members are deeply concerned about the short timeframe of this inquiry. People with disability, families and our representative organisations need more time and resources to understand, discuss and respond to the proposed changes properly.

Moreover, the process of working together to design these changes must especially consider people with disabilities from diverse backgrounds. This includes ensuring the voices of people with disability living in regional and remote areas, First Nations people, people from Culturally and Linguistically Diverse backgrounds, and LGBTQIA+ communities are prioritised.

2. Needs Assessments to Determine Funding

According to section 32(L) in the NDIS bill, people with disability who have met the eligibility criteria will undergo a 'needs assessment' which will be used to decide the funding in their NDIS plan. Both the needs assessment and the process to calculate the funding budget are described in the Explanatory Memorandum as 'highly technical', and will be decided by the Minister, with promises that they will be developed with input from the disability community and experts. But is not stated legally in legislation

Belong members have very significant concerns about how the needs assessment will be used and the potential limitations of the assessment tools. A significant concern is that the needs assessment process may not adequately capture the 'whole of person' support needs, as recommended in the NDIS Review's final report, particularly for people with multiple or complex disabilities. Further, *belong* members are concerned that these assessments may not be reviewable or challenged resulting in unmet needs.

We are further concerned that the needs assessment will only consider impairments that meet the new eligibility requirements, which is not in line with the 'whole of person' approach recommended by the NDIS Review report. There is a significant risk that people with complex and/or multiple disabilities will be unable to access all of the reasonable and necessary support they require.

Of further note, the bill does not clarify who will conduct the needs assessment or their expertise level. The NDIS Review report recommended that the needs assessment be conducted by allied health professionals or social workers with disability expertise, ideally lived experience of disability.

Belong members note that the final decision on who conducts the needs assessment, what assessment tools are used, and how the budget is calculated will be made by the Minister (subclause 32L(8)(b)). Our community holds serious concerns about the lack of information in the Bill to this effect.

There is a serious risk that needs assessments will not fully understand or reflect the participants' choices, circumstances and support needs. The needs assessors must be suitably qualified, knowledgeable and have relevant disability experience.

The NDIS Review report (p.37) likewise recommended that participants be given a draft of the needs assessment to check for accuracy and make corrections before it is submitted to the NDIA. The bill contradicts this recommendation, stating that 'a report of the assessment must be prepared and given to the CEO as soon as practicable after the assessment is completed.'

While the bill does allow for 'replacement needs assessments', there is no information to explain when or how a replacement assessment would be available to participants, and whether the participant could request one (clause 32L(7)). This is a significant flaw in the current bill.

There should be clear provisions in the legislation to enable participants the legal right to appeal a poor quality needs assessment and/or request a replacement needs assessment, rather than delegating this authority to Category A Rules (clause 32L(7)(b)).

In their [Q&A webpage](#), the Department of Social Services (DSS) suggests that if a participant applies for a review of the NDIA's decision on the 'Statement of Supports', the review would be able to consider the needs assessment. DSS also suggests that a participant would be able to ask for a new needs assessment to be conducted as part of the review of decision.

Belong members note that the wording in the bill does not confirm this process. Importantly, participants must have the right to appeal individual aspects of the process (such as the needs assessment), without being forced to seek a review of the entire statement of supports, potentially risking the loss of other necessary supports.

According to the legislation, after the needs assessment, a method will be applied to calculate a 'reasonable and necessary budget' for each participant, which could be used for flexible funding and/or specific supports (clause 32E). The method will be decided by the Minister (subclause 32L(8)(b)).

The Explanatory Memorandum states:

“New subsection 32E(2) will provide that flexible funding will be available to a participant where the needs assessment report for the plan indicates the participant requires at least some NDIS supports that are not stated supports.”

The above wording raises significant concerns that NDIS participants may receive only stated supports in their NDIS plans, rather than the flexible budgets promised by the NDIS Review final report.

There must be a flexible approach to the needs assessment process and the tools chosen. Disability is diverse, and it's common for people with disability to have more than one disability.

A one-size-fits-all approach will not work, and the assessments must be holistic in nature. Assessors must be flexible and responsive to the participant's needs, varying the assessment process and tools used as required.

Extensive research, testing, and codesign are required to ensure that the assessment tools are reliable, accurate, and accessible to people with different communication, sensory, cognitive, cultural, language, and literacy needs.

The needs assessment must be designed to be appropriate and accommodate people with disability, including children and young people, people with complex communication needs and low levels of literacy.

Finally, we are deeply concerned that the legislation to introduce these changes have been introduced before the needs assessment tools and budget calculation methods have been determined.

While there are assurances that codesign will occur, there is nothing in this bill to guarantee that codesign of the assessment tools and budget calculation methods will eventuate. This legislation will dismantle an approach to allocating reasonable and necessary support and replace it with one that does not exist, is not individualised and not fit for purpose.

In order for our community to be confident about changes to our NDIS, we need the Government to do the codesign work with us first and ensure that the approach is effective, before imposing it upon us.

3. Reasonable and Necessary Budget and NDIS Supports

The NDIS bill proposes a major change to the structure of the NDIS – replacing ‘Reasonable and Necessary Supports’ with ‘Reasonable and Necessary Budget’ and defined ‘NDIS Supports’. The Government proposes the development of permitted and prohibited lists of supports. The list of NDIS supports would specify items and supports that participants can claim from their NDIS funding, while the prohibited list would cover banned items that cannot be claimed. *Belong* members hold very significant concerns about how this proposed change would impact NDIS participants:

Restriction on Types of Supports: The shift toward defined NDIS supports limits the types of supports available to participants. This change could restrict access to broader and previously covered supports under the old "reasonable and necessary" criteria, which were more flexible, effective, economical, and tailored to individual needs.

Impact on Participant Autonomy, Choice and Control: By moving to a predefined budget model and defined supports, participant choice and control over their support plans will be significantly reduced. The flexibility to adapt supports based on changing needs or preferences would be constrained, affecting the ability to address unique and evolving participant requirements effectively.

Potential Reduction in Support Quality: The new framework would lead to a standardised approach that prioritises budget constraints over the quality of support. This could result in participants receiving supports that are specifically defined on the list of permitted NDIS supports rather than truly beneficial or suited to their specific disability, needs and circumstances.

The entire disability community led by Every Australian Counts campaigned for an individualised, person-centred NDIS. What constitutes disability support for one person will not be the same for another, and NDIS must continue to fund reasonable and necessary individualised supports. The narrow definition of 'NDIS Supports' is overly restrictive and risks undermining individual choice and control which are meant to be core pillars of the scheme.

The Explanatory Memorandum gives examples of white goods, holidays and cosmetics as items that would be prohibited. Assistive technology, including some white goods, are a vital, low-cost disability-related support for some people with disability. For example, it is significantly cheaper to fund a robot vacuum than to fund a support worker to vacuum every day. We note also that technology evolves over time, with new assistive technology becoming available, which could dramatically increase the independence of people with disability and for lower cost. A defined list of NDIS Supports prevents participants from accessing new technologies as they become available. Whilst NDIS should not and does not fund holidays, NDIS participants have the same right as other Australians to take holidays, and many require funded supports while taking their holidays, which needs to continue to be available. We also note that Short Term Accommodation (respite) must remain a support option, and an opportunity for young people with disability to practice independence as part of building skills to move out of the family home and live independently.

4. NDIS Plan Budget Changes

After the needs assessment identifies a participant's requirements for NDIS support, a specific 'method' will be used to calculate a 'reasonable and necessary budget,' which will then establish the amounts for flexible funding and/or stated supports (as per clause 32E).

Flexible Budget: This allows participants to choose and manage the supports they need and it covers funding for NDIS supports that do not fall under stated supports.

Stated Supports: This is allocated for specific high-cost items and can only be used for designated supports. 'Category A' NDIS Rules will define these stated supports, which may include expensive items like assistive technology, home modifications, and supported independent living.

Belong members note significant constraints proposed in Section 32 of the bill and explanatory memorandum which will impact the 'flexibility' of the flexible budget, including:

Defined Funding Periods: The new framework plan will also introduce 'funding periods,' meaning that a participant's total funding will be distributed in segments throughout the 'maximum period' of the plan (as outlined in subclauses 32F(2) and 32G(3)). This structure is designed to address 'intraplan inflation' - a scenario where funding is exhausted before the plan's duration ends and needs additional topping up. We note that an extremely common reason for 'intraplan inflation' is due to insufficient funding in the original plan, especially in the development of the first NDIS plan for a participant.

The flexible budget will be allocated and distributed over specified funding periods, which would limit immediate access to the necessary amount of funds at any given time, depending on the participant's immediate needs. PACE has been built with capability to turn on one month funding periods. Disability is not static, and many participants have complex, episodic and/or degenerative disabilities requiring flexibility to spend more funding during periods of higher support needs, and less funding during periods of lower support needs. There is extreme risk that restricting participants to funding periods will put NDIS participants at higher risk of violence, abuse and neglect.

Requirements for Spending (Section 32H): Certain conditions must be met before funds can be accessed or used. These might include requirements such as obtaining services from specified providers or fulfilling specific procedural criteria before the funds can be utilised. This significantly limits flexibility of funding, and will especially impact people in regional, rural and remote Australia where there are thin to no markets and meaningful flexibility of funding is crucial to accessing any support.

Restrictions on Support Types: While flexible funding aims to provide participants with the choice and control over their supports, limits will be imposed on what types of supports can be funded. These are defined by what is categorised as 'NDIS supports' under the new rules, potentially excluding very reasonable and necessary supports and preventing innovation. There is an extremely high risk of people with disability experiencing gaps in crucial supports due to narrowly defined NDIS supports.

Monitoring and Approval: The use of flexible funding may require more stringent monitoring and approval processes to ensure that the funds are spent within the defined rules and restrictions, adding another layer of bureaucracy to accessing supports. Rather than simplifying NDIS processes and accessing supports, this risks further complicating an already over-complicated system.

These constraints limit the intended flexibility of the budget, affecting how participants can manage and use their funds to meet their needs effectively under the new NDIS plan structure.

The 'method' for calculating these budgets will be determined by the Minister (referenced in subclause 32K(2)). The effectiveness of these changes will largely depend on the decisions made by the Minister. For these reforms to result in fair and equitable plans, it is crucial that the government engages in genuine co-design with the disability community to refine the assessment and budget-setting process.

In addition to being given a draft copy of the needs assessment to be checked before being submitted to the NDIA, participants (or their nominee) must likewise be given a draft copy of the budget to review before being finalised.

This will significantly reduce the high volume of requests for internal and external reviews of decision currently occurring due to poor decision-making by NDIS representatives, and demand for high cost reports to justify all requested supports.

Given the emphasis in this bill on participants spending in-line with their budget, ensuring that the needs assessment and budget are accurate and appropriate are vital. Codesign and transparency are vital in the development of the method for determining participant budgets.

Diverse voices must be included in the codesign and testing of all methods, to ensure full consideration is given to:

- People with all disability types, including people with communication issues, multiple, complex and/or degenerative disabilities.
- People with disability living in regional, rural and remote areas, with consideration of the impact of geographic isolation and thin markets – particularly given the NDIS Review's controversial recommendation of mandatory provider registration or enrolment and its association impact on participants in regional and remote communities.
- Aboriginal and Torres Strait Islander people.
- Culturally and Linguistically Diverse people.
- LGBTQIA+ people.
- Age and developmental needs, inclusive of children and young people and their families.

It is essential that both the needs assessments and methodology to determine budgets are fully and extensively tested with all minority cohorts prior to implementation. It can be challenging to predict the intensive supports participants require at different life transitions, with different informal or formal supports in place and different geographic situations and access to supports. The method for determining budgets must also be sufficiently flexible to accommodate unexpected life events, such as loss of informal supports, changes in support needs, unexpected hospitalisation, or the need for new assistive technology, home modifications, or repair or equipment.

5. APTOS Unsuitable for Determining NDIS Supports

Belong, members, understand that according to the new Part 3 (2) and (3), the [Applied Principles and Tables of Support \(APTOS\)](#) will be used as the interim measure for deciding what is or is not an 'NDIS Support' until the new NDIS rules to create the list of permitted and prohibited NDIS Supports are developed. We note that APTOS was never designed to be operationalised in this manner. The APTOS principles were developed in 2015 as very broad policy guidelines for state governments and NDIA to determine responsibility for various supports. They were never intended to be inserted into legislation, and in some places, they are contradictory to this bill. The draft bill says that rehabilitation falls under the remit of the NDIS, whereas the APTOS table places rehabilitation under the remit of the state-based Health Departments. There is significant risk that both NDIS and State/Territory Governments assume they are not responsible for types of supports, leaving participants without the reasonable and necessary support they require.

The existing NDIS principles for Reasonable and Necessary should continue to be applied for deciding what qualifies as an NDIS support under subclauses 10(b) and 10(c).

6. Selective Reference to the UNCRPD

Belong members are concerned that the [United Nations Convention on the Rights of Persons with Disabilities \(UNCRPD\)](#) as referenced in the Bill primarily revolves around the selective interpretation and application of its principles. The bill uses certain elements from the UNCRPD to define 'NDIS supports' but does not incorporate the full spectrum of rights and principles outlined in the convention. This selective usage narrows the scope of supports available under the NDIS, which risks limiting the rights and supports provided to persons with disabilities in contrast to what the UNCRPD intends.

The current reference to the UNCRPD in the bill seems to omit crucial aspects like the rights to work and employment, which are integral for the social and economic inclusion of persons with disabilities. By not including these elements, the bill might restrict the ability of individuals to access supports that facilitate full participation in society, thereby contradicting the broader objectives of the UNCRPD.

The bill should explicitly incorporate elements of the UNCRPD that facilitate not just physical mobility and community inclusion but also promote economic participation and employment. Additionally, the development of any rules or guidelines related to the definition of 'NDIS supports' should involve extensive consultation with the disability community to ensure that the legislative framework aligns with the holistic intent of the UNCRPD. This approach will help ensure that the NDIS truly supports the full inclusion and participation of all persons with disabilities in society, consistent with Australia's international obligations under the UNCRPD.

7.Changes to Eligibility and Access

The proposed changes in Section 24 and 25 of the bill risks increasing distress and trauma experienced by people with psychosocial disability applying for access to the scheme. *Belong* members hold that psychosocial disability is a legitimate disability, deserving of equal rights under the NDIS Act. We note also that under current NDIS eligibility criteria, psychosocial disability is considered a permanent disability which is not effectively addressed by existing mainstream services. The scope and level of support required, which is currently provided by the NDIS, are not available through mainstream mental health services. Many participants with psychosocial disability find the clinical mental health system, which is predominantly medication-focused, to be damaging, retraumatizing, coercive, judgmental, stigmatising, and systemically oppressive.

Changes to eligibility and access are premature, given that Foundational Supports as recommended by the NDIS Review final report do not yet exist.

8. Increased Powers of the NDIA

Plan Management

The Bill introduces new subsections 43(2A), (2B), (2C), and (2D), which address scenarios in which the CEO may deny a participant's request for funding to be Plan Managed or Self-Managed in relation to new framework plans.

Circumstances permitting the CEO to make such decisions include:

- Potential physical, mental, or financial harm to the participant if the decision isn't made.
- Non-compliance with section 46, which deals with the acquittal of NDIS amounts, regarding current or any previous plans.
- Any circumstances specified by yet to be developed Category A NDIS rules.

Belong members are deeply concerned about the significant power granted to the CEO to override a participant's plan management preferences without clear limits. Changing a participant's plan to Agency (NDIA) Managed has a dramatic impact on a participant's autonomy, choice and control; with serious repercussions impacting their access to supports – particularly in areas of thin markets such as regional and remote communities. It is critical that limits on how this power is used be clearly defined within the bill.

Section 43 of the bill should be amended to:

- Detail the criteria for determining potential harm to the participant and ensure that risk assessments include the participant / nominee, with support for decision-making, family and/or carers, an advocate, and other important people in the participant's life. This criteria must include assessment of the risk to participant in being unable to access any supports or losing current supports if funding is changed to Agency Managed.
- Specify what constitutes non-compliance with section 46 and establish the threshold for such noncompliance that would allow the NDIA to override a participant's preferred plan management type.
- Ensure that NDIS rules related to this section are codesigned with people with disabilities and the broader disability community, and that these rules are accessible

to all within the disability community. Codesign must particularly include the voices of regional, rural and remote participants and nominees, who will be most impacted by improper use of this power.

Information Gathering Powers

The NDIS bill grants the NDIA additional authority to request information or documents from participants, with severe consequences if these requests are not fulfilled. This includes:

Revocation of Participant Eligibility

If the NDIA is considering removing a participant from the scheme, it can demand information or require the participant to undergo a health assessment, which might include medical, psychological, or other evaluations. If the participant does not provide the required information within 90 days, the CEO has the authority to revoke their status, effectively removing their access to Scheme support (as specified in clauses 30 and 30A). Considering the extensive waitlists (6 months to 4 years) to access the various mainstream services NDIA are seeking such assessments from, there is significant risk of participants being removed from the NDIS and losing access to reasonable and necessary supports. Such deadlines would additionally place participants under immeasurable stress with serious implications for their health and wellbeing. *Belong* members are further concerned that the bill fails to include any constraints on this power, including what circumstances the NDIA can consider revocation of a participant's eligibility, and whether the eligibility reassessment would be applied to all existing participants and/or specific cohorts of existing participants.

Requirements for New Framework Plans

While preparing a new framework plan, the NDIA can request any information it deems 'reasonably necessary' for this purpose, or require a participant to undergo a medical assessment. If the participant fails to comply within 28 days without a valid reason, both their current NDIS plan and any forthcoming plans will be suspended until they meet the NDIA's request (as detailed in subclause 36(3)). Again, *Belong* members are extremely concerned by the short timeframe given to comply with the NDIA's demand for medical assessments, and the lack of choice and control afforded to participants to be assessed by a medical professional of their choice. There is significant risk of the NDIA appointing an unsuitable medical professional without the relevant disability expertise to make the assessment (eg. Appointing a speech pathologist to assess physical or psychosocial disability).

These powers are extensive, allowing the NDIA the capacity to compel participants to consult with or be evaluated by a health professional of its choice, or to collect a wide range of personal information, such as notes from a psychologist. The ramifications of non-compliance can be quite harsh for participants.

***Belong* members believe the bill should significantly restrict these information-gathering powers, by limiting the types of information that can be requested, increasing the time-frame for compliance and reducing the negative consequences for failing to comply.**

9. Strengthened Quality and Safeguarding Measures

Belong members support the proposed changes in the Bill (Schedule 2) that enhance the Quality and Safeguards Commission's authority, such as attaching conditions to the approval of a quality auditor and expanding the Commissioner's regulatory actions by delegating compliance and enforcement powers to a wider group of personnel.

However, there must be substantial reforms to address violence and abuse against people with disabilities. There must be procedures introduced for unannounced site inspections of closed settings such as group homes to proactively prevent abuse, and improved systems to manage complaints effectively and identify patterns of complaints about providers – to trigger greater scrutiny. These changes should also ensure that the Commission monitors for and addresses conflicts of interest, poor practices (including unfair service agreements), reduction of restrictive practices and improved code of conduct.

10. Challenges and Reviews of Processes and Decisions

In the proposed NDIS bill, participants retain the right to review the 'statement of supports', which includes the reasonable and necessary budget. However, the bill does not extend the right to review or appeal several of its new procedures, either through internal NDIA processes or externally through the Administrative Appeals Tribunal.

Critically, the 'needs assessment' will not constitute a 'reviewable decision' under section 99 of the NDIS Act, meaning it cannot be subjected to internal or external review. This limitation prevents participants from contesting an unsatisfactory needs assessment, potentially leading to the establishment of an inadequate budget based on that assessment.

Moreover, the Bill does not guarantee that participants can view the needs assessment report before it is submitted to the CEO. According to Section 32L(5), the assessment report must be prepared and delivered to the CEO as soon as practicable after completion. Contrary to recommendations from the NDIS Review, the report should be made available to the participant before finalisation.

This provision should be clearly stated in the legislation to ensure participants have access to the assessment report before it reaches the CEO.

Although the Bill allows for 'replacement assessments', it does not specify when these might occur, nor does it confirm whether participants can request them (referenced in clause 32L(7)). New NDIS 'Category A' Rules are expected to outline the circumstances under which the NDIA should organise a replacement assessment (clause 32L(7)(b)). Should a participant request a replacement assessment that the NDIA declines to arrange, there would be no recourse to appeal or review the decision.

The Department of Social Services (DSS) suggests that during a review of a decision on a statement of participant supports, the needs assessment may be reconsidered to verify if it accurately reflects the participant's needs and circumstances. It also mentions that participants could request a new needs assessment during such a review. However, the current draft of the bill does not clearly support this process.

Belong members consider this to be a significant flaw with the Bill. If needs assessments are to be used for the purpose of setting budgets, the legislation must clearly grant participants the right to receive and review the needs assessment before it is finalised, ensuring it genuinely reflects their individual needs and circumstances, and to request a new assessment when necessary.

11. Over-Reliance on Delegated Legislation

The NDIS Bill introduces extensive powers for the NDIS Minister to establish Rules and determinations without requiring passage through Parliament. This form of 'delegated legislation' will play a crucial role in the implementation of the proposed reforms. Several NDIS Rules and determinations will formalise existing operational guidelines and policies, as was recommended in the NDIS Review final report.

NDIS Rules are formulated in conjunction with State and Territory Governments. The Bill empowers the Minister to create new Rules that will:

- * Define the types of supports the NDIS will fund (subclauses 10(b)-(c));
- * Establish decision-making processes regarding disability and early intervention requirements (clause 27);
- * Specify which supports qualify as 'stated supports' and set prerequisites for obtaining certain supports (clause 32J);
- * Dictate the circumstances under which a participant's plan management request can be denied (subclause 43(2C)(c)).

Most new NDIS Rules will fall under 'Category A', necessitating unanimous agreement from all State and Territory Governments, providing greater oversight compared to 'Category C' Rules, which only need a majority agreement, or 'Category D' Rules, which merely require consultation.

The Minister also has the authority to make critical 'determinations' concerning:

- * The procedures for conducting needs assessments (subclause 32L(8));
- * The methods for calculating funding in reasonable and necessary budgets (subclause 32K(2)).

Although either house of the Commonwealth Parliament can veto these legislative instruments, they are not formally passed by Parliament and do not require consensus from State and Territory Governments. Despite the expectation for the Minister to consult appropriately before enacting a legislative instrument, these rules can be enforced without consultation. Given the Government's pledge to involve the disability community in developing this legislation, this commitment should be explicitly stated in the NDIS Act.

The use of delegated legislation for administrative or technical details or to allow flexibility in rapidly changing areas may be suitable. However, relying on such measures raises several issues:

The full impact of the bill is challenging to understand. For instance, the community does not know how the Government will limit what is funded under the NDIS and what will be funded by States and Territories through foundational supports, because the Rules to specify NDIS supports have yet to be seen by the community.

The Government should release the draft rules for people with disability and our representative organisations to consider.

Delegated legislation may not be suitable for all aspects of the changes proposed by the bill. Significant policy areas require more public scrutiny than what is needed to enact rules or determinations.

For example, the new section 27 allows for the development of Rules about access, which is fundamental to the scheme and should be explicitly included in the primary legislation. Without knowing what is included in the delegated legislation, *Belong* members are unable to decide whether the bill has the balance right between the NDIS Act and the delegated legislation.

As the NDIS Review report recommended that codesign must be central to all of the NDIS reforms, *Belong* members are concerned that this bill proposes that major changes to the NDIS happen through delegated legislation, with no legislated commitment to ensuring that meaningful codesign occurs.

12. Recommendations

*** Firstly, and most importantly, amend Section 4 to legislate a requirement for meaningful inclusive practices, co-design and consultation with people with disability and their representative organisations in designing and implementing NDIS reforms.**

This must include:

- Leadership by people with disability and our representative organisations.
- Engagement plans and timelines which are transparent, publicly available and promoted to people with disability.
- Meaningful codesign with people most impacted by any changes, including people with disability living in regional, rural and remote areas (prioritising geographically isolated people), First Nations people, Culturally and Linguistically Diverse (CaLD), LGBTQIA+, people with communication issues, and people with diverse disability types.

*** Amend Sections 24 and 25 to include more comprehensive criteria that do not disadvantage people with fluctuating or less visible disabilities such as psychosocial disabilities.**

This amendment should reflect an understanding that disability impacts can vary greatly and that recovery is not always a linear or achievable outcome for all. No changes to eligibility and access should occur until foundational supports are established and fully functioning.

*** Amend subclause 32L to require that the Needs Assessor be a qualified allied health professional or social worker with experience conducting assessments and in the participant's disability type(s).**

*** Amend subclause 32L(5) to require that the Needs Assessor provide a draft needs assessment report to the participant for review and corrections, before it is given to the NDIA.** As recommended in the NDIS Review final report, the Needs Assessment must take a 'whole of person' approach to the assessment.

* Amend the bill to include a requirement for the needs assessment tool(s) to:

- Be meaningfully codesigned and tested by people with disability from diverse backgrounds, families and carers, disability representative organisations, academics and health professionals, advocates and service providers.
- Be developed using evidence from Australian and international peer-reviewed research about assessing the support needs of people with disability, and be considerate of the impact of assessments on people with disability.
- Ensure people with 24/7 support needs are not disadvantaged, and ensure that they have the 1:1 support they need to live independently and not be forced to share support.

*** Amend sections 26 and 36 of the bill to require the NDIA to fully fund the cost of any assessments and reassessments of participants requested by NDIA.**

*** Amend Section 10 of the bill to ensure that 'Reasonable and Necessary Supports' continue to be the fundamental core of the NDIS, replacing the introduction of narrowly defined 'NDIS Supports'.**

*** Remove Section 32H so that a flexible budget can be truly flexible. The provisions outlined in this section can be achieved when necessary by allocating stated supports.**

*** Remove reference to using the APTOS principles to determine 'NDIS Supports' as an interim measure until Rules are created.**

*** Require the NDIA to provide draft budgets to participants for review, before they are finalised.**

Introduce a new provision or amend existing sections to make 'needs assessments' a reviewable decision, allowing participants to appeal or review these assessments

and related plan decisions. This would involve changes to Section 99 to include needs assessments as reviewable decisions.

*** Address the extensive use of delegated legislation by amending relevant sections, such as those giving rule-making powers to the Minister (e.g., Sections 27, 32J, and 43(2C)(c)).** These amendments should require more substantial public scrutiny and include key decisions about NDIS support and access criteria in the primary legislation rather than allowing them to be determined solely by ministerial rules or determinations.

*** Amend Section 43 to include clear parameters around when and how the NDIA can override a participant's preferred plan management type.**

*** Amend the bill to fully embrace the comprehensive framework of the UNCRPD.**

*** Amend the bill to improve protections for participants where their eligibility is being reassessed.** There must be clear criteria under which eligibility may be reassessed, and constrictions on how often a participant's eligibility is reassessed.

*** Amend the bill to improve protections for participants where NDIA have been unable to contact them.** Consideration must be given to the fact that people fear answering phone calls from private numbers, may be homeless or have recently moved residence, and other factors impacting their ability to respond to correspondence from the NDIA.

*** Incorporate stronger quality and safeguarding measures as recommended by the Disability Royal Commission.**