

The NDIS Amendment Bill 2026

Presented by Villamanta Disability Rights and Legal Service Inc.

20 May 2026



Villamanta
DISABILITY RIGHTS LEGAL SERVICE

Acknowledgements

- ▶ We acknowledge the traditional custodians of this land, the Wadawurrung people of the Kulin nation, and we recognise their continued connection to land, water and community. We pay our respects to Elders past and present.
- ▶ We acknowledge all people with disabilities who continue to lead and inspire our work.

Housekeeping

- ▶ You can turn on automatic captioning.
- ▶ You can ask questions in the Q&A section for us to answer later.
- ▶ There will also be an opportunity to speak/ask questions if you wish - please raise your hand and unmute yourself.
- ▶ Otherwise please remain muted if you are not speaking.
- ▶ We are recording this session and will share it on our YouTube channel.

www.youtube.com/@VillamantaDisabilityRights

Your speakers today



- ▶ Louis Bowden, Lawyer
- ▶ Villamanta Disability Rights Advocacy Centre

Keeping everybody safe

- ▶ This is a lot, it is rushed, and it is confronting
- ▶ If you feel overwhelmed at any point, you can leave this meeting and take care of yourself
- ▶ There are other sessions if you can only do a bit at a time - just join one of them at around the time you left this one
- ▶ While acknowledging this is a difficult time, we are all in this together - let's look out for each other
- ▶ Solidarity

Agenda

Context

Access to the NDIS

Planning and impairments

Plan reassessment, renewal/suspension

Payments/claiming

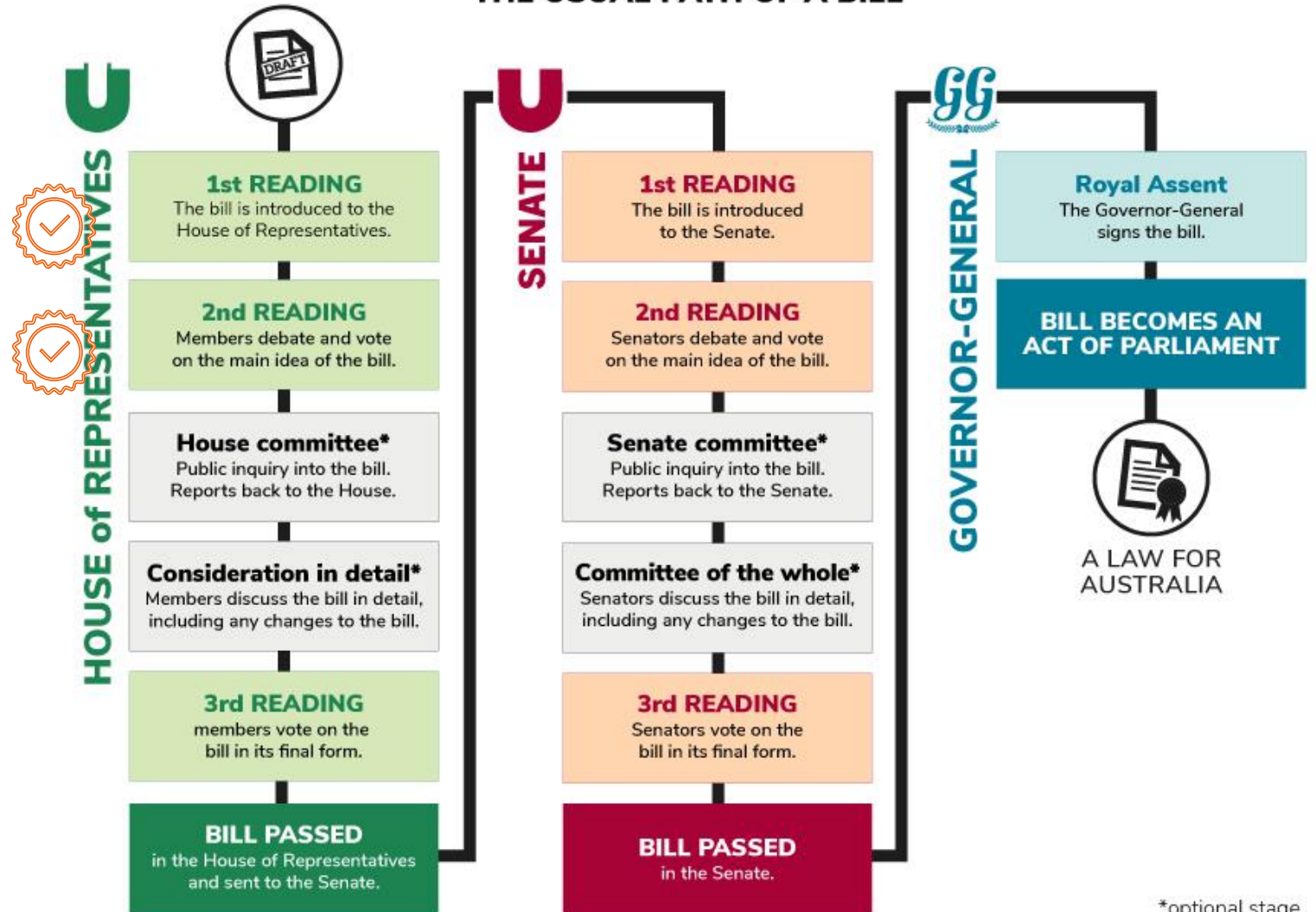
Automation

Getting involved

Questions

Context

THE USUAL PATH OF A BILL



*optional stage



Senate referral

The Senate may refer the text of the bill to a Senate committee for inquiry (this can happen while the bill is in the House).

Access to the NDIS



Access to the NDIS

Current Act

- ▶ “Functional capacity” used as a term but not defined
- ▶ The test of “substantially reduced functional capacity” is applied case by case
- ▶ The NDIA has 21 days to make a decision after an application is made

Changes in the Bill

- ▶ “Functional capacity” is defined as a term for future rule making
- ▶ There will be rules that effectively limit who can be considered for access before applying the legislative test
- ▶ The NDIA has 90 days to make a decision
- ▶ New definition of permanence

Functional capacity definition

- ▶ (1) A person's *functional capacity*, in relation to an activity, is 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 environmental and personal circumstances.
- ▶ (2) The National Disability Insurance Scheme rules may make provision for determining any matter for the purposes of subsection (1).

Access rules



Can be about the methods or criteria to be applied regarding functional capacity



Can include classifications or thresholds (what type, how much)



Can state things that can't be taken into account, as well as things that must be

Permanence - disability requirements

- ▶ Requiring the person to have undertaken all “appropriate treatments”
- ▶ Defines “appropriate treatments” as
 - ▶ Evidence based
 - ▶ Can **reliably be expected to materially improve** the person’s condition
 - ▶ Is regularly offered in Australia
- ▶ This applies regardless of the person’s circumstances - eg they can’t afford it or get to a clinic offering it

Early intervention requirements

- ▶ Early intervention criteria changed from “benefit the person by **mitigating or alleviating** the impact of the person’s impairment” to “benefit the person by **reducing** the impact of the person’s impairment
- ▶ This has the potential to delay access for people with degenerative conditions until the point they meet the disability requirements, potentially reducing quality of life

Planning and impairments

The background features a series of overlapping, semi-transparent green triangles and polygons of various shades, ranging from light lime green to dark forest green. These shapes are primarily located on the right side of the slide, creating a modern, abstract design.

Meet Al

- ▶ Al is blind, and the NDIA have granted access on this basis
- ▶ Al also has a range of other conditions which mean they need to use a wheelchair when they leave the house. The NDIA do not agree that these conditions meet access.
- ▶ Al also has a psycho-social disability. The NDIA do not agree that this condition meets access.



Planning and impairments - an ongoing battle

- ▶ From the start of the NDIS, most people have read the law to say that once you are a participant the NDIS provides you with the disability supports you need. (Whole Person approach)
- ▶ The NDIA have argued that they only provide supports for the condition/s that they agree meet the access requirements. (Accepted Impairments approach)
- ▶ Most of the Tribunal decisions agreed with the Whole Person approach. So did the NDIS Review.
- ▶ The government tried to take the Accepted Impairments approach when they last changed the law in 2024. After a lot of advocacy the Whole Person approach was held up in three small notes in the law.

The notes

32K

(3A) The Minister must also be satisfied that those rules adequately take account of the variety of factors that may affect a participant's need for NDIS supports.

32L

Note: (6) The report must:

(a) identify the participant's disability support needs arising from impairments in relation to which the participant meets the disability requirements or the early intervention requirements; and

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34

Note: For the purposes of paragraph (aa):

(a) the time at which the disability requirements or the early intervention requirements need to be met is the time the CEO decides to approve the statement of participant supports; and

(b) a participant's disability support needs arising from an impairment in relation to which the participant meets the disability requirements or the early intervention requirements may be affected by a variety of factors, including environmental factors **or the impact of another impairment in relation to which the participant does not meet either of those requirements.**

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The NDIA planner will consider Lee's vision impairment when developing their plan.

These notes mean that the planner must also take into account Lee's physical and psycho-social disabilities when considering the disability supports Lee needs.

Planning and impairments

The current Act

- ▶ We have the notes
- ▶ 34(1)(aa) refers to the support needs “arising from an impairment”

Changes in the Bill

- ▶ The notes are gone
- ▶ 34(1)(aa) refers to the support needs “arising **directly** from an impairment or impairments”.

- ▶ Also excludes impairments caused by car accidents and work-related injuries (where there are schemes for this)

While we're on the subject of the principles that the Bill removes....

S 3 Objects of the Act

Current Act

(d) provide reasonable and necessary supports, including early intervention supports, for participants in the National Disability Insurance Scheme; and

Changes in the Bill

(d) provide NDIS supports for participants in the National Disability Insurance Scheme that are reasonable and necessary, **so far as is consistent with the financial sustainability of the scheme**; and

S 31 Principles relating to plans

The preparation, variation, reassessment and replacement of a participant's plan, and the management of the funding for supports under a participant's plan, should so far as reasonably practicable:

- (a) be **individualised**; and
- (b) be **directed by the participant**; and
- (c) where relevant, **consider and respect the role** of family, carers and other persons who are significant in the life of the participant; and
 - (ca) where relevant, **recognise and respect the relationship** between participants and their families and carers; and
 - (d) **strengthen and build capacity** of families and carers to support participants who are children; and
 - (da) if the participant and the participant's carers agree--strengthen and build the capacity of families and carers to support the participant in adult life; and
- (e) consider the availability to the participant of informal support and other support services generally available to any person in the community; and
- (f) support communities to respond to the individual goals and needs of participants; and
- (g) be underpinned by the **right of the participant to exercise control over his or her own life**; and
- (h) **advance the inclusion and participation in the community** of the participant with the aim of achieving his or her individual aspirations; and
- (i) **maximise the choice and independence** of the participant; and
- (j) facilitate **tailored and flexible responses** to the individual goals and needs of the participant; and
- (k) provide the context for the provision of disability services to the participant and, where appropriate, coordinate the delivery of disability services where there is more than one disability service provider.

***only parts of (c), (ca) and (f) find their way back in to various sections of the Bill**

~~S 31 Principles relating to plans~~

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Support determinations

Current Act

- ▶ Reasonable and necessary supports + price guide = funding in plan

Changes in the Bill

- ▶ The Minister can reduce the funding of a certain category by a percentage
- ▶ He has already stated this will be social and community participation, but it is not limited to that
- ▶ Some category of participants will have this applied when their next plan starts
- ▶ How do they define this category?
On what data?

Which means....

The supports have been deemed reasonable and necessary



The funding has been allocated based on the current prices in the Price Guide



The Bill allows the Minister to decide to reduce the funding by a percentage



The people affected won't have enough funding to purchase the R&N supports when their next plan starts

The safeguard

“(3) In making the determination, the Minister must have regard to the safety of participants.”

How?



Other powers available to the Minister

Make a determination **for a support or a class of supports**, in relation to **participants generally or a class of participants**:

- (a) a **maximum amount of funding** for the support or supports in the class of supports; or
- (b) a **maximum intensity** for provision of the support or supports in the class of supports; or
- (c) a **maximum ratio of worker to participant** for provision of the support or supports in the class of supports.

The Minister can also set prices, including having different prices for different types of providers and registered/unregistered.

Other cost cutting considerations for planners

Are there cheaper alternatives (but no longer requiring “the same outcome”)?

Would leasing be cheaper than buying?

What research and evidence is there of effectiveness?

Presumption that parents are responsible for providing substantial care and support for children



The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The central area is white, providing a clean space for the text.

Plan reassessment,
renewal and suspension

Reassessment

Current Act

- ▶ Participants can request a reassessment at any time (Change of Circs)
- ▶ The Agency can refuse to reassess
- ▶ That is a reviewable decision
- ▶ After 21 days, if they don't answer it is **deemed to be a refusal**
- ▶ That is also a reviewable decision

Changes in Bill

- ▶ Participants can only request a reassessment if certain conditions apply
- ▶ The Agency can refuse to reassess
- ▶ That is a reviewable decision
- ▶ They now have 90 days, but there is **no deemed refusal**
- ▶ There is no reviewable decision if they just don't reassess

Who can ask for a reassessment

Current Act

- ▶ On request of the participant
- ▶ In practice, support co-ordinators and others have put in Change of Circs for participants



Changes in Bill

- ▶ On request **by** the participant or the participant's plan nominee (only)



Goodbye rollovers, hello “renewal”

Current practice

- ▶ When plan passed the end date it automatically extended, adding more time and funding called a “rollover”
- ▶ Any unused funding in the old plan remained
- ▶ Nothing else changed

Changes in Bill

- ▶ The old plan will end and a new one start the next day
- ▶ Unused funding is confined to the old plan
- ▶ New features will be incorporated - funding periods, support determinations, maximum funding etc

Suspensions

- ▶ The NDIA will be able to suspend a plan if they have been unable to contact a participant for 90 days



Payments & claiming

Current Act

- ▶ Claims must be made within 2 years
- ▶ Silent on record keeping

Changes in Bill

- ▶ Claims must be made within 90 days
- ▶ Participants must keep records of claims and payments for 3 years
- ▶ Nominees must keep records of claims and payments for 5 years

Plan management will fundamentally change

- ▶ A far smaller pool of plan managers, who must have a signed agreement with the NDIA
- ▶ Plan managers will not be allowed to provide any other supports to participants
- ▶ Plan managers will need to tell the NDIA about any other companies that are related (owned by the same people)

Automation

- ▶ The NDIA will be able to automate certain decisions
- ▶ For the moment they are focused on plan production and payments
- ▶ With the changes like support determinations automation is obviously going to be essential to flow this through all relevant budgets
- ▶ But what information is the automation relying on when deciding how to apply the determination, and why can't the participant see it and review it?
- ▶ The most obvious piece of information is recognised disability/impairment - why can't you see that on the portal/app?

Some of the issues



Support determinations won't be written into plans. So the plan may say \$50,000 funding, but there's only \$30,000 available.



If you reach the end of the plan and a renewal occurs it will bring all the new features in - funding periods, support determinations etc. A renewal is not reviewable.



Would suspensions be automated? What if the participant has actually called or emailed the contact centre but nobody got back to them?

Getting involved

- ▶ The community doesn't get it. Talk to the people around you, educate your little part of the world
- ▶ Make a submission - even if that submissions just says “this is too short a time for me to make a submission, and I object to this being rushed through.” Use your own words and your own experience
- ▶ Contact your federal MP and tell them your concerns
- ▶ Local newspapers are often keen to have local news - talk to their journos
- ▶ Talk to your Disability Representative Organisation/Disabled Peoples Organisation, or join one!
- ▶ Join in online discussions and campaigns

Assistance making submissions

- ▶ Half hour telephone time slots with a law student available next Tuesday and Wednesday to help you write up your submission
- ▶ Details about how to book are in the chat

Questions and discussion



MORE INFORMATION

Villamanta Disability Rights Legal Service Inc.

Advice Line: 1800 014 111 Mon - Fri: 10 – 4 p.m.

Admin line : 03 5260 1845

Website: www.villamanta.org.au

TTY Users: please phone 133 677 then ask for 03
5260 1845