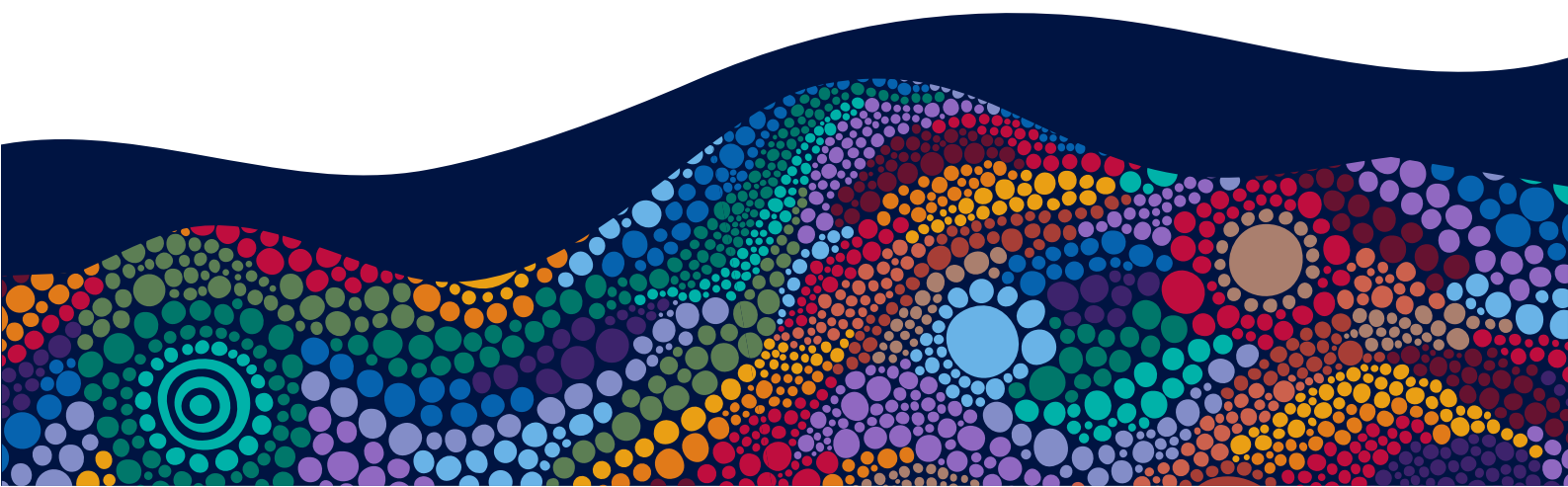


NDIS (Securing the NDIS for Future Generations) Bill 2026

Submission to Senate Standing Committee on
Community Affairs – Legislation Committee

May 2026



About NACCHO

NACCHO is the national peak body representing 148 Aboriginal Community Controlled Health Organisations (ACCHOs). We also assist a number of other community-controlled organisations.

The first Aboriginal medical service was established at Redfern in 1971 as a response to the urgent need to provide decent, accessible health services for the largely medically uninsured Aboriginal population of Redfern. The mainstream was not working. So it was, that over fifty years ago, Aboriginal people took control and designed and delivered their own model of health care. Similar Aboriginal medical services quickly sprung up around the country. In 1974, a national representative body was formed to represent these Aboriginal medical services at the national level. This has grown into what NACCHO is today. All this predated Medibank in 1975.

NACCHO liaises with its membership, and the eight state/territory affiliates, governments, and other organisations on Aboriginal and Torres Strait Islander health and wellbeing policy and planning issues and advocacy relating to health service delivery, health information, research, public health, health financing and health programs.

ACCHOs range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal health practitioners and/or nurses to provide the bulk of primary health care services. Our 148 members provide services from about 550 clinics. Our sector provides over 3.1 million episodes of care per year for over 410,000 people across Australia, which includes about one million episodes of care in very remote regions.

ACCHOs contribute to improving Aboriginal and Torres Strait Islander health and wellbeing through the provision of comprehensive primary health care, and by integrating and coordinating care and services. Many provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support. Our services build ongoing relationships to give continuity of care so that chronic conditions are managed, and preventative health care is targeted. Through local engagement and a proven service delivery model, our clients 'stick'. Clearly, the cultural safety in which we provide our services is a key factor of our success.

ACCHOs are also closing the employment gap. Collectively, we employ about 7,000 staff – 54 per cent of whom are Aboriginal or Torres Strait Islanders – which makes us the third largest employer of Aboriginal or Torres Strait people in the country.

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Recommendations

- 1 NACCHO recommends the Government demonstrate how the reforms proposed by the Bill align with the National Agreement and its four Priority Reform Areas.
- 2 NACCHO recommends that the proposed definition of 'functional capacity' be removed from the Bill as it will lead to further disadvantage for Aboriginal and Torres Strait Islander people with a disability.
- 3 NACCHO recommends that the requirement in proposed section 48A that an alteration in a participant's person or environmental circumstances be 'unanticipated' be removed to ensure that planned changes can be used as a basis to request a plan reassessment. This will allow a participant to request a plan reassessment where the changes to their circumstances are 'significant and ongoing'.
- 4 NACCHO recommends that proposed section 34A be removed.
 - a. NACCHO recommends that if the proposed section is maintained, the Bill provide that the Minister must have regard to the impact a determination will have on NDIS participants and particularly on Aboriginal and Torres Strait Islander people with a disability.
 - b. NACCHO also recommends that the Determination be made subject to legislative sunseting so that the Minister or Government of the day will need to remake the determination in order to maintain the funding reductions and justify them.
- 5 NACCHO recommends the proposed amendments to tighten 'reasonable and necessary supports' be opposed and that the current approach be maintained.
- 6 NACCHO recommends the Bill be amended to require the CEO to consider the cultural, environmental and personal circumstances of the participant and whether these may have been factors that led the participant not to be able to contact the NDIA.
- 7 NACCHO recommends that the NDIA commit to designing in partnership with Aboriginal Community Controlled Organisations and peaks an enhanced approach for making contact with Aboriginal and Torres Strait Islander people with a disability to ensure that any contact takes account of the needs of community.
- 8 NACCHO recommends that the Bill provide that in considering whether a treatment is 'appropriate' the CEO must take into account a person's financial means and their geographical location to determine the realistic accessibility of that treatment.
- 9 NACCHO does not support the changes in Schedule 1 Part 9 of the Bill and recommends the current approach be maintained.
- 10 NACCHO recommends that the Bill and NDIS rules setting out who is or is not an NDIS provider take account of the existing registration, compliance and governance arrangements that exist for community-controlled organisations.
- 11 NACCHO recommends that the Bill be amended to provide some flexibility in relation to record keeping requirements to take account of events that are beyond the control of a provider or participant or to take account of the specific circumstances of a provider.
- 12 NACCHO recommends that the Government work in partnership to design an ACCHO/ACCO dedicated plan management function to take account of the existing community controlled governance and service provision arrangements to encourage more ACCHOs/ACCOs to provide plan management services.

- 13 NACCHO recommends that proposed section 73EA of the Bill be amended to specifically include 'cultural safety' as one of the standards that a plan management provider must comply with, and that the Government design these standards in partnership with ACCHO/ACCO sector.
- 14 NACCHO recommends that the Minister ensure that pricing determinations reflect the true cost of delivering culturally safe services to Aboriginal and Torres Strait Islander people with a disability.
- 15 NACCHO recommends the Bill be amended to ensure any automated decision-making process maintains cultural safety for Aboriginal and Torres Strait Islander people and considers the needs of Aboriginal and Torres Strait Islander people when making the automated decision.
- 16 NACCHO recommends the Bill be amended to ensure any automated decision-making process impacting vulnerable participants, such as Aboriginal and Torres Strait Islander people, include a human oversight process.



Acknowledgements

NACCHO welcomes the opportunity to provide a submission to the Senate Community Legislation Affairs Committee about the provisions of the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 (the Bill).

NACCHO supports the submission made by the Aboriginal Health Council of South Australia in relation to the Bill. NACCHO also supports the submissions made by First Peoples Disability Network and Indigenous Allied Health Australia that make important contributions to the negative impact the Bill will have on the lives of Aboriginal and Torres Strait Islander people with a disability, their families, their communities, and the community-controlled services governed by them.

Introduction

NACCHO does not support the Bill in its current form.

NACCHO recognises the importance of ensuring the long-term sustainability, integrity and effectiveness of the NDIS for Aboriginal and Torres Strait Islander people with a disability. However, this cannot be at the cost of Aboriginal and Torres Strait Islander people with a disability. Sadly, the reforms proposed by this Bill will do just this.

The reality is that Aboriginal and Torres Strait Islander people experience higher rates of disability, greater barriers to access health care services and other government services, and longstanding structural disadvantage caused by systemic racism, marginalisation and the continuing effects of colonisation.

The reforms proposed by this Bill will only entrench and worsen this disadvantage.

The reforms assume equal access to other government services or programs, but this is far from the case in the lives of many Aboriginal and Torres Strait Islander people with a disability. The reforms will deepen existing inequities unless they are accompanied by culturally safe, place-based supports and targeted implementation strategies.

The National Agreement on Closing the Gap recognises that equal treatment alone will not overcome entrenched inequality and racism. Achieving greater equitable outcomes requires an approach that takes account of a person's individual circumstances, their local context and barriers they face in accessing services and supports.

The proposed reforms will take Aboriginal and Torres Strait Islander people with a disability and their families and communities backwards by excluding them from essential supports they need or significantly reducing the funding available to them.

The reforms will not advance the Government's commitment to the National Agreement on Closing the Gap. It is very likely that the Bill will widen the gap and further entrench disadvantage, racism and inequality for Aboriginal and Torres Strait Islander people with a disability.

National Agreement on Closing the Gap

Advocating for and securing the National Agreement on Closing the Gap was an historically significant act of Aboriginal and Torres Strait Islander self-determination. The National Agreement is evidence of a new era of engagement by and with Aboriginal and Torres Strait Islander people. It commits Australia to a new direction and is a pledge from all governments to fundamentally change the way they work with Aboriginal and Torres Strait Islander communities and organisations – to support self-determination and build the capacity of the community-control sector.

This Government's first Closing the Gap Implementation Plan commits to achieving Closing the Gap targets *through implementation of the Priority Reforms*. This represents a shift away from focussing on the Targets, towards the structural changes that the Priority Reforms require, and which are more likely to achieve meaningful outcomes for our people in the long term.

The reforms and targets outlined in the National Agreement seek to overcome the inequality experienced by Aboriginal and Torres Strait Islander people and achieve life outcomes equal to all Australians. Governments at all levels have committed to the implementation of the National Agreement's four Priority Reform Areas, which offer a roadmap to meaningfully impact structural drivers of poor health and social outcomes for Aboriginal and Torres Strait Islander people:

Priority Reform Area 1 – Formal partnerships and shared decision-making

This Priority Reform commits to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments, and to accelerate policy making that centres Aboriginal and Torres Strait Islander voices.

Priority Reform Area 2 – Building the community-controlled sector

Recognising that community-controlled services achieve better outcomes, employ more Aboriginal and Torres Strait Islander people and are often preferred over mainstream services, this Priority Reform commits to building Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap.

Priority Reform Area 3 – Transformation of mainstream institutions

This Priority Reform commits to systemic and structural transformation of government organisations to identify and eliminate racism, embed and practice cultural safety, deliver services in partnership with Aboriginal and Torres Strait Islander people, support truth telling about agencies' history with Aboriginal and Torres Strait Islander people, and engage fully and transparently with Aboriginal and Torres Strait Islander people when programs are being changed.

Priority Reform Area 4 – Sharing data and information to support decision making

This Priority Reform commits to shared access to regional data and information to inform local-decision making and support achievement of the first three Priority Reforms. This Priority Reform supports principles of Indigenous Data Sovereignty.

Despite some progress, the need for fundamental systemic reform remains evident. In its first review of the National Agreement on Closing the Gap, the Productivity Commission found that governments are not adequately delivering on their commitments. Despite support for the Priority Reforms and some good practice, progress has been slow, uncoordinated, and piecemeal.

The Commission noted that to enable better outcomes, governments need to relinquish some control, share decision making and acknowledge that Aboriginal and Torres Strait Islander people know what is best for their communities. Aboriginal Community Controlled Organisations must be treated as critical partners rather than passive funding recipients, and trusted to design, deliver and measure government services in ways that are culturally safe and meaningful for their communities.

‘Too many government agencies are implementing versions of shared decision-making that involve consulting with Aboriginal and Torres Strait Islander people on a pre-determined solution, rather than collaborating on the problem and co-designing a solution’¹

The Commission noted that to enable better outcomes, governments need to relinquish some control, share decision making and acknowledge that Aboriginal and Torres Strait Islander people know what is best for their communities. Aboriginal Community Controlled Organisations must be treated as critical partners rather than passive funding recipients, and trusted to design, deliver and measure government services in ways that are culturally safe and meaningful for their communities.

Disappointingly, the current Bill fails to live up to this promise. The proposed reforms to the NDIS will have no regard to the safety and welfare of the Aboriginal and Torres Strait Islander participants it supports and the Aboriginal Community Controlled Organisations that provide services within the Scheme.

The Impact Analysis on the reforms prepared by the Department of Health, Disability and Ageing notes (at p.236 of the Explanatory Memorandum to the Bill) that one of the changes related to the tightening of ‘reasonable and necessary’ support criteria may ‘have the potential to affect certain Closing the Gap outcomes’.

This is a significant misrepresentation of the changes proposed by the Bill and a regrettable indication of the value that the Government has placed on considering the impact the reforms will have on Aboriginal and Torres Strait Islander people with a disability. The Government has failed to consider whether the proposed NDIS reforms will achieve any progress toward achieving Targets under the National Agreement and its four Priority Reform Areas.

NACCHO recommends the Government demonstrate how the reforms proposed by the Bill align with the National Agreement and its four Priority Reform Areas.

NACCHO Response to the Bill

Tightening access to the NDIS by redefining ‘functional capacity’ Schedule 1, Part 1

The proposed definition of ‘functional capacity’ (proposed section 9B in item 4 of Schedule 1, Part 1) will have significant implications for Aboriginal and Torres Strait Islander people with a disability.

By expressly excluding the ‘impact of the person’s environmental and personal circumstances’ there is a significant risk that the assessment process will not consider the cultural context, community responsibilities, non-verbal communication styles and collective caregiving structures of many Aboriginal and Torres Strait Islander people with a disability.

The Australian Institute of Health and Welfare notes that social determinants account for a substantial proportion of the health gap between Aboriginal and Torres Strait Islander people and non-Indigenous Australians. These determinants operate across urban, regional and remote areas and contribute to higher rates of chronic disease, preventable illness and disability.

As affirmed in the Bill’s Impact Assessment (at p. 235–237 of the Explanatory Memorandum), removing these factors “has the potential to affect certain Closing the Gap outcomes.” Excluding environmental and personal circumstances disregards the “cumulative impacts of historical, social, and systemic inequalities”

¹ Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report, Canberra, 7 Feb 2024 <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report>.

experienced by Aboriginal and Torres Strait Islander participants, which are often inseparable from functional capacity. This creates a risk of indirect racism through exclusion, or direct racism by removing functional capacity indicators on the basis that they reflect systemic disadvantage rather than the intersection of disability and race.

Far from a 'potential effect', this reform will widen the Closing the Gap outcomes and further embed inequity in the NDIS.

NACCHO recommends that the proposed definition of 'functional capacity' be removed from the Bill as it will lead to further disadvantage for Aboriginal and Torres Strait Islander people with a disability.

Limiting plan reassessments Schedule 1, Part 2

The Bill proposes to introduce limits on when and how a plan reassessment may be requested. Item 21 of the Bill introduced new section, s.48A that will set out the conditions that must be satisfied before the CEO of the NDIA can contract a reassessment of the participant's plan in response to a request by a participant. Particularly, a request for reassessment must be the result of a significant change in the participants ongoing support needs directly arising from an impairment, which must also be substantial and ongoing.

Despite the examples provided under this item, the requirement that the change is 'unanticipated' is likely to exclude changes that are planned (e.g. a new job or moving to a new house). Under the Bill, If a person were to plan a change, like relocating to access a specific therapy or service or as part of a transient population, then this would not be considered 'unanticipated' which would mean that they would not be able to request a reassessment of their plan to allow their new circumstances to be taken into account in their plan.

The Impact Analysis notes that Aboriginal and Torres Strait Islander people request reassessments at one of the highest rates among participants, and that the total plan inflation rate resulting from unscheduled reassessments is also higher than for any other participant group (25% compared to 21%; see pp. 223–224 of the Explanatory Memorandum). This high rate of occurrence displays a misalignment between the NDIA's assessment of need and the actual need of Aboriginal and Torres Strait Islander participants that was able to find some remedy through the reassessment process.

The proposed reform will likely make expected and short-term changes to plans harder to request, reducing the ability to ensure plans meet participants' actual, current, and changing needs. With consideration to the lived-experience and data above, the introduction of s.48A will disproportionately impact Aboriginal and Torres Strait Islander people with disability.

NACCHO recommends that the requirement in proposed section 48A that an alteration in a participant's person or environmental circumstances be 'unanticipated' be removed to ensure that planned changes can be used as a basis to request a plan reassessment. This will allow a participant to request a plan reassessment where the changes to their circumstances are 'significant and ongoing'.

Making support determinations to reduce funding Schedule 1, Part 4

The Bill will allow the Minister to reduce funding for groups of supports across the Scheme unilaterally without any regard to the impact on individual plans and participants. These determinations will be subject to disallowance as Legislative Instruments, but not subject to legislative sunset.

This is a blunt approach to managing the financial sustainability of the Scheme. This will mean that reduction in funding will last forever without any reassessment, justification, or oversight on whether the level of funding is sufficient to meet the individual needs of participants.

Under the proposed provisions (new section 34A inserted by Item 34), the Minister may reduce the amount of funding for a support under the current plan development process by up to 99%. This will mean that, if a Determination is made, the actual amount of funding provided under the NDIS will not meet the actual cost of providing the support, even where it is still a reasonable and necessary support. This will demand services such as ACCHOs to operate at further financial deficit, and where they do not provide services, for participants to shoulder the costs.

This ministerial power is limited primarily by the Minister's consideration of the 'safety of participants'. However, the provision does not require consideration of the key determinants of reducing participants' experiences of violence, abuse, neglect, or exploitation, including community engagement, access to employment, and educational inclusion. Nor does it require the Minister to consider whether participants bearing the additional costs of service is likely to subject them to financial hardship, of which over 50% of Aboriginal and Torres Strait Islander people currently report experiencing².

While the Impact Analysis has made clear that this provision has been developed for the purposes of "resetting support budgets in old framework plans for social and community participation and capacity building daily activity supports", the absence of context in section 34A allows it to be directed to any category of support indiscriminately.

This category of NDIS funds is currently used by many Aboriginal and Torres Strait Islander people with a disability to maintain their cultural practices, fulfil their cultural obligations (such as Return to Country) and strengthen or maintain their connections with community. Many ACCHO services work hard (often at a loss) to provide these services to participants.

Connecting with culture, community and Country is central to the life and wellbeing of Aboriginal and Torres Strait Islander participants, and further, to their engagement with clinical and therapeutic outcomes and the Scheme overall. Significant reductions in the amount of funding for these supports will drive disengagement from the Scheme and lead to disproportionately poor health and life outcomes for Aboriginal and Torres Strait Islander participants; further widening the gap.

The power granted to the Minister allows him to make unilateral changes to the amount of funding in current NDIS plans without any reference to, or sufficient knowledge of, the impact the reduced funding would have on the participant or their family. If the amendment is made, NACCHO considers that the Minister needs to demonstrate they have considered the impact the determination would have on Aboriginal and Torres Strait Islander participants and on the objectives of the NDIS Act in section 3 of that Act.

NACCHO recommends that proposed section 34A be removed.

NACCHO recommends that if the proposed section is maintained, the Bill provide that the Minister must have regard to the impact a determination will have on NDIS participants and particularly on Aboriginal and Torres Strait Islander people with a disability.

NACCHO also recommends that the Determination should be made subject to legislative sunseting so that the Minister or Government of the day will need to remake the determination in order to maintain the funding reductions and justify them.

Tightening 'reasonable and necessary supports' - Schedule 1, Part 6

The Bill proposes to tighten the parameters of what can be considered 'reasonable and necessary' supports. It also inserts specific references to 'value for money' and whether the participant can access support

² Money Stories: Financial Resilience Among Aboriginal and Torres Strait Islander Australians – Centre for Social Impact

through family or community. The Bill introduces a new requirement that the CEO of the NDIA must be satisfied that the support is not more appropriately provided or funded by another scheme or government service system. The Bill also introduces a legislative instrument mechanism (Item 68) that will allow the Minister to set maximum funding amounts or ratios for individual supports or classes of supports.

These proposed amendments will have a significant negative impact on many Aboriginal and Torres Strait Islander people. By prioritising value for money over the individual circumstances and needs of a person with a disability, there is a significant risk that many existing supports will be defunded on the basis of being no longer 'reasonable and necessary'.

The amendments will also force many Aboriginal and Torres Strait Islander people with a disability to access mainstream services and support in other Commonwealth, state, or territory funded schemes that are often not fit-for-purpose, or which are culturally unsafe.

There is also a significant risk that maximum funding amounts, or the amounts approved as 'reasonable and necessary', may not reflect the actual cost of delivering services in remote and isolated communities.

However, higher costs of delivering services to Aboriginal and Torres Strait Islander people are not limited to services in remote and very remote locations. They also apply to services in rural, regional, and metropolitan areas (Modified Monash Model 1-5) where there are increased costs because of factors such as the higher rates of disability, concurrent disabilities, and complexity of support needs among Aboriginal and Torres Strait Islander people.

The health and wellbeing of Aboriginal and Torres Strait Islander people are also shaped by a broad range of structural and social determinants that significantly impact their functional capacity and the level of funding needed to support them. Entrenched cycles of poverty, poorer education and employment outcomes, racism and increased interaction with the justice system all contribute significantly to poorer health and wellbeing outcomes.

The Bill also proposes that, in considering what is 'reasonable and necessary', the CEO can consider that the support of families and carers of the person with a disability will be sufficient. Under this approach, it will allow the NDIS to assume that family supports are sufficient without taking account of the reality of multi-generational trauma, fractured kinship structures, poor health outcomes, inequitable access to education, access to stable housing, and the functional capacity constraints for many Aboriginal and Torres Strait Islander families.

These inclusions to the Bill will likely exacerbate the levels of disadvantage experienced by many Aboriginal and Torres Strait Islander families.

NACCHO recommends the proposed amendments to tighten 'reasonable and necessary supports' be opposed and that the current approach be maintained.

Plan suspensions when there is no contact from participants – Schedule 1 Part 7

The Bill will significantly expand the ability of the CEO to suspend a participant's plan if they cannot be contacted by the NDIA. The amendments proposed by Part 7 of Schedule 1 will allow a plan to be suspended where CEO is satisfied that reasonable attempts have been made by the NDIA to contact the participant and the participant is not contactable. Under this provision, the CEO would be required to provide a written notice of the decision to suspend the plan to the participant. This would mean that while the plan is suspended, NDIS payments would also be suspended having a significant impact on a participant's day to day life. If a plan is suspended for at least 90 days, then the CEO would be able to revoke a person's status as a NDIS participant.

These amendments will have a significant detrimental effect on many Aboriginal and Torres Strait Islander people with a disability who may not be contactable for a range of reasons, including social isolation, living in a remote community with unreliable connectivity, use of shared devices, or limited English literacy.

With the rising population of Aboriginal and Torres Strait Islander families accessing homelessness services (31% of the service population)³ and facing ongoing barriers with mobile connectivity (43% of all Aboriginal and Torres Strait Islander communities)⁴, many participants may struggle to engage with government processes and systems. This barrier to engagement is heightened by low levels of English literacy, disproportionate impacts from extreme weather events⁵, and a mistrust of government services generally.

This inclusion to the Bill also places the onus on the participant to connect with the NDIA, which may be inaccessible for many Aboriginal and Torres Strait Islander participants who may prefer to connect with an agency face-to-face or through a trusted provider such as an ACCHO.

NACCHO recommends the Bill be amended to require the CEO to consider the cultural, environmental and personal circumstances of the participant and whether these may have been factors that led the participant not to be able to contact the NDIA.

NACCHO recommends that the NDIA commit to designing in partnership with Aboriginal Community Controlled Organisations and peaks an enhanced approach for making contact with Aboriginal and Torres Strait Islander people with a disability to ensure that any contact takes account of the needs of community.

Tightening ‘permanence’ to reduce access to the NDIS where an impairment can be treated – Schedule 1, Part 8

The Bill seeks to provide a clearer definition of ‘permanence’ by introducing the concept of ‘appropriate treatment’ in the new section 25A (inserted by Item 92). Under this approach, an impairment will not be taken to be permanent unless the participant has undergone all appropriate treatment, that any other treatment is unlikely to make any improvements, and the impairment is likely to persist for the person’s lifetime.

The definition of ‘appropriate treatment’ refers to treatment that is ‘regularly undertaken or performed in Australia’ (proposed s 25A), regardless of whether a person’s individual circumstances restrict their access to that treatment. The proposed note to the clause makes clear that individual circumstances can include a person’s financial circumstances or geographical location.

For Aboriginal and Torres Strait Islander people with a disability this means that if any possible appropriate treatment is available in any part of Australia, it is assumed they can access that treatment regardless of social, economic, or geographical barriers. Under these circumstances, they would be excluded from the NDIS because their impairment is not considered permanent. Aboriginal and Torres Strait Islander people with a disability will face further challenges given the existing difficulty in accessing mainstream medical services in hospitals and specialist services.

The current mainstream approaches employed by government have not supported Aboriginal and Torres Strait Islander people, and do not adequately reflect the reality of access challenges for communities. In remote and very remote areas, there are frequently no providers of medical, surgical, or rehabilitative therapies. If there are mainstream providers, they often do not deliver culturally safe care or are inaccessible due to distance, cost or availability. Aboriginal and Torres Strait Islander people in urban and regional locations also have challenges accessing culturally safe treatment, being less likely than to receive a medical or surgical procedure than non-Indigenous Australians while in hospital. While these regions may have

³ Raising the alarm: Australia’s family homelessness emergency – Homelessness Australia, <https://homelessnessaustralia.org.au/wp-content/uploads/2025/08/HA-Raising-the-alarm-Australias-family-homelessness-emergency-v03.pdf>

⁴ Mapping the Digital Gap: 2023 Outcomes Report - Australian Research Council Centre of Excellence for Automated Decision Making and Society

⁵ Australia’s National Climate Risk Assessment Report – Australian Climate Service

multiple providers offering services with differing approaches, they may not be culturally safe, and therefore not accessible for Aboriginal and Torres Strait Islander people.

This further entrenches inequality and inequity, reduces access for those most vulnerable (including remote communities), and ensures Aboriginal and Torres Strait Islander people with a disability experiencing social and economic disadvantage will not receive help. Consequently, the gap in health, economic, and social outcomes for Aboriginal and Torres Strait Islander people with disability will widen.

NACCHO recommends that the Bill provide that in considering whether a treatment is 'appropriate' the CEO must take into account a person's financial means and their geographical location to determine the realistic accessibility of that treatment.

Tightening eligibility based on ability access to other services – Schedule 1, Part 9

The Bill proposes amendments that will tighten eligibility for the NDIS to exclude people who may be able to access alternative supports through another program or service system that is designed for meeting the needs of that person in those circumstances (such as workers compensation or motor vehicle accident compensation schemes).

Currently, if a person has access to these types of supports it is considered as part of NDIS planning process to ensure that there is no duplication of funding.

Under the approach proposed by the Bill, Aboriginal and Torres Strait Islander people with a disability who have acquired an impairment because of a workplace injury or motor vehicle accident will be required to navigate a complex and culturally unsafe system to access supports they need. NACCHO considers that this is not a fair and appropriate way to manage eligibility. It considers that the current approach under the NDIS where the planning process takes account of the other service or funding is more appropriate. NACCHO does not support the proposed changes.

NACCHO does not support the changes in Schedule 1 Part 9 of the Bill and recommends the current approach be maintained.

Registration of NDIS Providers – Schedule 2, Part 1

NACCHO broadly welcomes greater clarity and oversight of NDIS providers. However, we remain concerned that the approach in the Bill and proposed Rules will not consider the unique circumstances of the Aboriginal Community Controlled sector (including the ACCHO sector).

All ACCHOs are funded by the Australian Government to provide primary healthcare. As primary health providers, they are required to comply with a range of standards, including the National Health Standards, RACGP Standards and ISO standards. ACCHOs are trusted, culturally safe options and for many Aboriginal and Torres Strait Islander people with a disability, the only trusted option to provide services.

However, ACCHOs are unable to use their clinical governance frameworks in registering to deliver disability, aged or veterans' care. Duplication and lack of reference to prior registration in other care services has led to registration processes that costly, resource heavy and, lengthy. Harmonisation of the regulatory environment is required.

ACCHOs' holistic, person-centred approach to care prioritises individual client needs. The multidisciplinary care model naturally supports people as they age and have growing needs for different types of care to maintain wellness. The ACCHO model of care incorporates wraparound services that are not generally available through mainstream services. It ensures clients receive all the care they need.

The burden of reporting and compliance across multiple systems is significant and is generally not funded or supported. Front end processes from entry to compliance must be simplified for providers and the data shared between Departments and agencies where necessary.

NACCHO and the NDIA have been working to have more ACCHOs provide services under the NDIS. More ACCHOs would like to become NDIS providers to help their communities access NDIS services. However, many are concerned by the additional and unnecessary regulatory burdens that registration as an NDIS provider entails with little, if any, additional benefit in quality-of-service delivery. The Government needs to ensure that in introducing additional oversight of NDIS providers it does not unintentionally make it harder for ACCHOs to become providers.

NACCHO recommends that the Bill and NDIS rules setting out who is or is not a NDIS provider take account of the existing registration, compliance and governance arrangements that exist for community-controlled organisations.

Retention of records - Schedule 2, Part 4

Proposed section 45B of the Bill (introduced by Item 83) introduces record keeping requirements for payments made to the NDIA for up to 7 years since the claim was made by providers, 3 years where the claim was made by participants, and 5 years where made by other persons.

This may be burdensome to ACCHOs frequently subject to natural disaster or those without the administrative capacity to retain this information. This also places a high level of burden on Aboriginal and Torres Strait Islander participants with disabilities, particularly, those who are part of a transient population, individuals with cognitive/psychosocial impairments, and those living in insecure housing.

NACCHO recommends that the Bill be amended to provide some flexibility in relation to record keeping requirements to take account of events that are beyond the control of a provider or participant or to take account of the specific circumstances of a provider.

Registered plan management providers - Schedule 2, Part 6

The Bill proposes to establish a new approach to plan management which will include transitioning to a panel arrangement. Proposed sections 73EA and 73EB (inserted by Item 97) introduces a deed of arrangement requirement for registered plan management providers, with conditions relating to governance and integrity processes, staffing and workplace standards, staff identity verification, technology and communication systems, and conflict of interest requirements.

NACCHO welcomes stronger regulatory standards for mainstream providers. However, these requirements may hamper many ACCHOs from taking up the role of plan management providers conflicting with the ACCHO model of care and the lived realities of the Aboriginal and Torres Strait Islander workforce supporting participants within the Scheme.

The community-controlled comprehensive primary healthcare model is holistic and grounded in culture, truth, lived realities, lore, and Country. It integrates evolving community structures and relationships to deliver culturally informed services designed around community needs. As part of this model, ACCHOs may provide multiple disability services alongside broader supports to ensure continuity of care.

Community-controlled governance models differ from mainstream approaches to conflict of interest, but remain highly accountable through direct community oversight, with service users represented on governing boards to ensure services are culturally safe, responsive, and community-led. The proposed governance

requirements risk undermining this model and, in turn, Priority Reform 2 under the National Agreement on Closing the Gap by limiting growth of the community-controlled disability sector.

Combined with existing worker screening requirements which fail to consider the implications of an over-policed population, these restrictions imposed in 73EA(2) and 73F(2)(k) risk further limiting the Aboriginal and Torres Strait Islander workforce, despite government commitments to grow the sector in the First Nations Strategy⁶.

NACCHO recommends that the Government work in partnership to design an ACCHO/ACCO dedicated plan management function to take account of the existing community-controlled governance and service provision arrangements to encourage more ACCHOs/ACCOs to provide plan management services.

Related to this reform is the need to ensure that the regulation of any system of plan management needs to ensure Aboriginal and Torres Strait Islander people with a disability have access to culturally safe plan management services. In locations where Aboriginal community-controlled services are not available, and where First Nations markets remain thin, mainstream providers often operate without regard for the cultural safety of participants. This can compromise participant safety, trust, and engagement.

The deed of arrangement must set out standards for how a mainstream provider will deliver culturally safe services to Aboriginal and Torres Strait Islander people.

NACCHO recommends that proposed section 73EA of the Bill be amended to specifically include 'cultural safety' as one of the standards that a plan management provider must comply with, and that the Government design these standards in partnership with the ACCHO/ACCO sector.

Setting price caps on NDIS services - Schedule 3, Part 1

The Bill proposes the introduction of a Ministerial power to make pricing determinations (including the maximum price payable to services on funding managed by the Agency or Plan Managers).

NACCHO believes that community-controlled providers should be paid for the actual cost of the services they provide, which they currently are not. NACCHO's members who are disability service providers report at a deficit within the NDIS service landscape, as the Scheme does not account for the added cost of culturally safe practices embedded in the ACCHO model of care.

Many ACCHOs already providing disability supports have consistently reported to NACCHO that they undercharge their services due to current pricing constraints, placing them at a financial deficit. Introducing further cuts is likely to see many remaining ACCHOs withdraw from the Scheme and will disincentivise ACCHOs from entering the NDIS in the future. The consequence of which, is the removal of a model of servicing identified within the National Agreement as recognising the "strength, the expertise and the right to self-determination by Indigenous communities"; a core component to cultural safe servicing.

Seeking to reduce costs by imposing a maximum amount payable to services will further disincentivise community-controlled disability service providers from operating within the Scheme, and others, from entering it. Ultimately, undermining Closing the Gap Priority Reform 2, building the community-controlled sector within the disability service landscape and Priority 3, embedding meaningful cultural safety within the NDIS service landscape.

⁶ First Nations Strategy 2025-30 – National Disability Insurance Agency

NACCHO welcomes that the Bill (see proposed subsection 45C(9) inserted by Item 4 of Schedule 3) provides that some types of services may require different pricing provisions due to issues such as remoteness of the location in which they are provided or different kinds of participants.

NACCHO recommends that the Minister ensure that pricing determinations reflect the true cost of delivering culturally safe services to Aboriginal and Torres Strait Islander people with a disability.

Automation of administrative action - Schedule 3, Part 2

The Bill proposes to allow the automation of a number of critical processes relating to NDIS plan development, service payments, payment amounts, and compliance measures. This raises significant concerns, as automated systems are inherently limited in accounting for the complexity of functional capacity, which is shaped not only by disability, but also by broader social and historical factors such as intergenerational trauma, fractured kinship structures, and structural violence.

Aboriginal and Torres Strait Islander participants experience these factors at disproportionately high rates and are therefore likely to be disproportionately impacted by systems unable to appropriately account for these complexities. These proposed changes risk further privileging individuals whose experiences align more closely with standardised, Western-centric understandings of functionality, while indirectly excluding Aboriginal and Torres Strait Islander participants diverse experiences of disability.

A commissioned report by the Disability Royal Commission found that:

“...First Nations NDIS participants are 28% less likely to receive care via the NDIS than their non-Indigenous counterparts. The research finds some of these disability services could be described as ‘unsafe, traumatising and inequitable’³.

These outcomes are not incidental; they reflect structural issues in NDIS design and reform, particularly the limited inclusion of Aboriginal and Torres Strait Islander experiences of disability in policy development and decision-making.

The result is likely to be an incomplete understanding of support needs, contributing to the lack of cultural safety, reduced trust, and service refusal. Conversely, some participants may utilise underfunded supports necessary to their livelihood and become subject to punitive compliance measures that lack human judgement and contextual understanding, increasing distress, traumatisation, and the risk of service disengagement.

NACCHO recommends the Bill be amended to ensure any automated decision-making process maintains cultural safety for Aboriginal and Torres Strait Islander people and considers the needs of Aboriginal and Torres Strait Islander people when making the automated decision.

With the introduction sections 59E(3) and 59E(5), systemic inequity and structural racism in the functional capacity assessment process is likely to become more prevalent and further embedded in the Scheme. These provisions affirm the validity of administrative actions taken by the automated system, regardless of whether the system contains errors or has failed to comply with its legislative requirements.

The consequence of these provisions is that they may undermine a participant's ability to seek administrative or judicial rectification of systemic harms enacted through automated decision-making. This includes harms arising from rigid structures that fail to account for Aboriginal and Torres Strait Islander experiences, as well as errors that may perpetuate or intensify existing forms of structural violence.

There are strong parallels between these automated decision-making provisions and those underpinning the *Robodebt* scheme, which was described by the Royal Commission's report as a 'massive failure of public administration'⁷.

This failure arose through opaque systems introduced to improve efficiency and reduce cost within a welfare scheme while significantly limiting meaningful avenues for challenge. The scheme was also found to have disproportionately exacerbated the inequalities experienced by Aboriginal and Torres Strait Islander people⁸. This has sown a deep distrust of automated systems which, alongside the absence of human connection central to culturally safe practice, drives disengagement from these schemes by Aboriginal and Torres Strait Islander people.

By introducing similar automated processes into functions critical to the operation of the Scheme, while limiting mechanisms for challenge and oversight, the legislation risks life-threatening harms attributed to a decline in cultural safety⁹ on the Scheme.

The automation of these critical NDIS processes undermines progress toward Priority Reform 3, transforming government organisations, by exacerbating institutional racism and limiting meaningful cultural safety within the Scheme.

NACCHO recommends the Bill be amended to ensure any automated decision-making process impacting vulnerable participants, such as Aboriginal and Torres Strait Islander people, include a human oversight process.

⁷ Royal Commission into the Robodebt Scheme Report - Commonwealth of Australia

⁸ Computer-controlled penalties and Robodebt come with a devastating human impact - Human Rights Law Centre

⁹ Measuring what really matters for Aboriginal and Torres Strait Islander peoples: Racism and cultural safety in healthcare - Australian Healthcare and Hospitals Association