

# NDIS Supports rules (section 10) consultation

## Summer Foundation submission

25 July 2025

### Introduction

The Summer Foundation welcomes the opportunity to make this submission to inform government's consideration of the rules to underpin Section 10 of the NDIS Act defining an NDIS support.

The National Disability Insurance Scheme (Getting the NDIS Back on Track No. 1) (NDIS Supports) Transitional Rules 2024 (the Transitional Rules) set out what supports are NDIS supports, supports that are generally not NDIS supports and a process for replacement supports.

The Summer Foundation's position is that the rules to support Section 10 (the Transitional Rules) are too prescriptive and need to be updated to reflect the following intent:

- Participants should have flexibility in how they use their NDIS budget to meet their disability support needs
- Participants should be able to purchase services and supports that meet their disability support needs, whether they are 'standard' items used for a disability-specific purpose or purpose-built or modified to suit a support need
- Participants must be able to pursue services and supports for their disability support needs that are cost-effective (value for money) and beneficial to them
- Participants must be able to pursue types and modes of support and services that assist them to meet their disability support needs and pursue their goals. This includes a variety of housing and living supports (such as with Hosts or Housemates) and different modes of support delivery (including drop-in, on-call and remote supports)
- Restrictions on how participants can spend their funds should only be applied to goods and services which are unsafe, illegal or clearly duplicate services provided under another service system.

This submission also responds to some of the questions in the Department of Social Services' discussion paper [Summary paper: NDIS supports rules consultations](#).

## Summer Foundation

The Summer Foundation focuses on identifying, designing and scaling up better housing and living solutions for Australians with disability with high support needs.

### Key recommendations

1. Ensure that the rules declaring what is an NDIS support maximise participant control of their budget to meet their disability support needs
2. Ensure that the rules enable participants to pursue the types and modes of support and services that assist them to meet their disability support needs and pursue their goals. This includes a variety of more contemporary housing and living supports (such as with Hosts or Housemates) and different modes of support delivery (including drop-in, on-call and technology that can monitor and activate in-person support if required)
3. Ensure that any restrictions on how participants can spend their funds on disability related supports are:
  - a. only applied to goods and services which are unsafe, illegal or duplicate services provided under other service systems; and
  - b. do not preclude types and modes of supports and services that participants determine meet their disability support needs

### The Rules should enable participants to use their budgets flexibly

The Summer Foundation supports the introduction of a reasonable and necessary budget that an NDIS participant can use flexibly. The intent of this is to provide maximum choice for the NDIS participant to determine the supports and services that meet their disability support needs. The introduction of a proper assessment and budget model will also support the Agency to control cost more effectively, meaning extensive rules about what can and cannot be purchased with NDIS funding will be unnecessary, and will potentially stymy innovation in disability support.

Since its amendment in 2024, the NDIS Act includes the concept of an NDIS support. The Act provides that what is an NDIS support under section 10 is declared through rules. The Act does not specify the detail to which the rules must go in their declaration of what constitutes an NDIS support. However, the requirement for declaration of a support as an NDIS support implies that all possible supports and services to be funded by the NDIS must be listed. This appears to be the interpretation in the recent Administrative Review Tribunal case YGBW and Chief Executive Officer of the National Disability Insurance Agency (NDIA) [2025] ARTA 1054 (21 July 2025).

The Summer Foundation's view is that an exhaustive and prescriptive list approach to what is an NDIS support is **not practical nor desirable** and is at odds with the original intent of the Scheme and the desired flexibility of setting a total amount of funding.

Further, the Act enables the declaration of supports which are not NDIS supports. However, the Act does not require this. To enable participants to achieve the greatest control with their NDIS budget, the Government should consider broadly defining what constitutes a disability-related support and ensure this intent is achieved in the drafting. The Government could then provide 'guardrails' about what is not considered an NDIS support such as supports or services which are illegal, harmful or are covered by other service systems (e.g. pharmaceuticals, income support).

With flexibility for participants to choose their supports, the NDIA could focus on supporting participants to make the most of their NDIS plan, including identifying those who are over- or under-utilising plan funding and need further assistance to get the most out of their plan.

### **The NDIS supports rule needs to foster innovation and choice in supports**

The NDIS supports rule needs to enable the purchase of supports and services which allow participants to choose the support that best meets their disability support needs. This may be a 'mainstream' item that the participant deems most appropriate for them. Enabling this choice means participants can choose supports and services which are most beneficial for them and which may be more cost effective for government (either initially or over time).

For example, technology that can monitor and activate in-person or virtual support if required may enable people with high support needs to live more independently, and result in more efficient support models that reduce costs for the Government. The support list should clearly enable technologies that support this type of model. The ability to use mainstream or innovative items or services for disability-specific purposes (for example, an Apple Watch to track falls) should also be clearly articulated rather than prohibited or restricted through a replacement support process.

The definition and declaration of an NDIS support also needs to enable choice in housing and living supports, creating certainty that participants can use their funding for a variety of housing and support arrangements. This includes Individualised Living Arrangements (ILAs) where participants choose where they live, who they live with and how their supports are provided. Such arrangements can include a participant choosing to share their lives with a Host or Housemate who provides some support and companionship in return for a stipend of reduced living costs (including rent). The declaration of what constitutes an NDIS support for a participant should recognise that there is a difference between an expense that is a participant's expense and an expense that is part of the cost of support provision.

For example, in an ILA, payment towards a Host or a Housemate's living costs (mortgage or rent or utilities and other costs such as transport) should be clearly able to be made in recognition of the support provided. In this circumstance, it is not the participant's living costs that are covered or contributed to, rather it is those costs of the person providing the support. The contribution to these arrangements usually occurs via a stipend or direct payment of rent by a provider or individual.