Submission: NDIS Access Changes

Department of Health, Disability and Ageing

September 2026

Acknowledgement of Country

MIFA acknowledges the Traditional Owners of the country throughout Australia and their continuing connection to land, sea and community. We pay our respect to them and their cultures and the Elders, past and present.

Recognition of Lived Experience

MIFA recognises and value the expertise of people, families and carers with living experience of mental health challenges. We uplift and amplify marginalised voices to create a more inclusive future for all.

About MIFA

Mental Illness Fellowship of Australia (MIFA) provides national leadership and coordination across the Australian mental health sector, bringing together lived experience, community service delivery, and policy expertise under one federation.

For forty years, MIFA has connected frontline practice with national reform through community mental health member organisations: Selectability, Karakan, Skylight Mental Health, MIFWA, MIFANT, Mental Health Foundation ACT, and Out Doors Inc. Together, these organisations employ approximately 1,650 people and support around 12,000 Australians each year, in the communities where they already live, work, recover and thrive. MIFA's Finding North, Out From the Mist and Schizophrenia Awareness Week programs extend that reach further still, providing people with lived experience a genuine platform of their own.

MIFA has a direct interest in this consultation. People with psychosocial disability, including many NDIS participants, are the cohort the Government's own Explanatory Memorandum to the recently passed *National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026* identifies as committing the highest proportion of any disability group in the Scheme to community participation. This submission draws on four decades of frontline delivery experience, national policy expertise, the evidence MIFA gave in person to the Senate Community Affairs Legislation Committee, and the voices of people with lived experience of psychosocial disability.

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Chapter One: Executive Summary

This Functional Capacity Assessment (FCA) consultation opens at the moment when the policy decisions that will determine its stakes have just been finalised. The National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026 passed the Senate in August 2026. Social, Civic and Community Participation (SCCP) funding cuts - 50 per cent, affecting 393,401 participants - commence in October 2026. An estimated 240,000 people are expected to move off the NDIS by 2031.

The Department of Health, Disability and Ageing is consulting on how disability will be evidenced and measured for NDIS access going forward. This Functional Capacity Assessment framework will reshape the processes, evidence requirements, and guiding principles through which access decisions are made. This matters because the Bill introduced a permanence test for access, requiring that people have undergone *"all appropriate treatment"* before their impairment is found permanent. But the rules determining how that test applies to people with psychosocial disability have not yet been written or consulted on.

The FCA consultation is where those rules will be developed, and the Senate Inquiry Committee explicitly acknowledged in its final report that concerns about unwanted treatment, choice and control, and how to assess permanent impairment in populations with episodic mental health challenges are valid, yet those concerns have not been translated into FCA design guidance.

This submission addresses a single, critical problem. A static functional capacity assessment framework cannot measure episodic, fluctuating disability. People with psychosocial disability can present as functionally capable at one point in time and significantly impaired at another. For the psychosocial disability community, this variability is not a measurement error. It is the disability. If government designs an FCA framework that treats this variability as evidence of non-permanence, or that penalises people for the complexity of the treatment landscape in mental health, it will systematically exclude the very population the NDIS was designed to serve. This happens at exactly the moment when community supports are being cut, and no replacement is ready.

In this submission, MIFA is calling for five things:

1. Genuine co-design of the FCA framework with people with lived experience of psychosocial disability and community mental health providers, not after-the-fact consultation;

2. Explicit design for episodic and fluctuating presentation, with assessment protocols that account for the reality that someone may present differently across time;

3. Evidence requirements that do not penalise the complexity of the treatment landscape in mental health or the access failures that exist outside the NDIS;

4. Regional and remote equity. The framework must not systematically disadvantage people in areas where specialist mental health services are scarce.

5. Explicit acknowledgment of the SCCP cuts and how they compound access barriers. The FCA framework must not be used to substitute for SCCP supports.

Without these five things, the FCA framework will not protect people with psychosocial disability. It will expose them.

MIFA is responding to this consultation with a clear position. Government must design an FCA framework that genuinely protects NDIS access for people with psychosocial disability in this moment of simultaneous SCCP cuts, uncommitted replacement supports, and NDIS tightening. We will bring the evidence, the lived experience, and the expertise to make that case. Whether government listens will determine whether people with psychosocial disability stay in the scheme and receive appropriate life-saving and life-affirming support, or are systematically pushed out.

Chapter Two: NDIS Access Changes Content

Why This Consultation Cannot Be Read in Isolation

In August 2026, the Senate passed the National Disability Insurance Scheme Amendment (Securing the NDIS for Future Generations) Bill 2026. The Bill had already passed the House of Representatives, following a month of Senate scrutiny, public hearings, and over 4,500 submissions from the disability and mental health sectors, people with disability, their families, and service providers.

MIFA opposed the Bill in its current form throughout the Senate Inquiry, raising concerns about what the proposed changes could mean for people living with psychosocial disability. While 63 amendments were made as the Bill passed through Parliament, MIFA says the key concerns for the psychosocial disability community remain unresolved. These include a 50 per cent cut to SCCP funding, commencing from October 2026, which affects 393,401 NDIS participants (52 per cent of the entire scheme) and is particularly consequential for people with psychosocial disability, who commit 30 per cent of their total plan budget to these supports - the highest proportion of any disability group (National Disability Insurance Agency, 2026).

The Bill also introduces a permanence test for access, requiring a person to have undergone all appropriate treatment before their impairment can be found permanent. For people with psychosocial disability, whose treatment landscape is contested, individually variable, and subject to access failures outside the NDIS, this framework is ill-fitted to the reality of how their disability presents (Mental Illness Fellowship of Australia, 2026b).

The Senate Committee itself heard dissenting evidence on this. Coalition Senators found the SCCP reset would create *“an unacceptable risk to the safety and welfare of vulnerable Australians with disability.”* The Greens’ report describes the changes as *“devastating to the lives of disabled people.”* Senator David Pocock's dissenting report found that *“the more people who are connected to a person and their community, the safer they are,”* citing the Disability Royal Commission's own findings on the dangers of isolation (Senate Community Affairs Legislation Committee, 2026).

By 2031, an estimated 240,000 people are expected to have moved off the NDIS. This comes at a time when significant gaps in psychosocial support already exist outside the scheme. Right now, nearly 1.5 million Australians are going without the psychosocial support they need. That’s approximately 500,000 people with moderate to high need mental health challenges who are outside the NDIS and without adequate psychosocial supports (Department of Health and Aged Care, 2024; Grattan Institute, 2025; Mental Illness Fellowship of Australia, 2026b), plus a further 900,000 family members and carers who fill the gap around them.

If eligibility tightens through a poorly designed FCA framework and SCCP is cut simultaneously, without certainty that replacement services are funded, staffed and available in communities before people lose NDIS support, the result will not be reform. It will be

displacement. This matters because the FCA framework will be the primary mechanism through which these 240,000 exits occur.

MIFA is already hearing from its own federation of community mental health organisations what the real-world impact of the SCCP cuts looks like. Member organisation leaders report that, because most psychosocial NDIS plans weight funding toward Social and Community Support categories, the practical effect of cutting the latter is that participants redirect remaining funding toward daily living needs seen as more immediate.

For many member organisations, group program attendance is already anticipated to fall by more than the headline 50 per cent, alongside significant reductions to individual supports, because the very flexibility Government has pointed to as a safeguard is likely to work against community participation rather than protect it. These are not hypothetical impacts. They are happening now, while this FCA consultation is underway.

The Problem: Static Assessment Cannot Capture Episodic Disability

The FCA consultation is now the mechanism through which rules under section 25A(5) of the NDIS Act will be developed. These are the rules that will determine how the permanence test applies to people with psychosocial disability. The Senate committee acknowledged this critical gap. In its final report, the committee noted: *"The rules to be made under section 25A(5), which will determine how the permanence test applies to people with psychosocial disability, have not been developed or consulted on. These are not implementation details. They are the substance of the reform for this cohort. The Committee is being asked to pass enabling legislation whose most consequential content has not been designed, let alone consulted on"* (Senate Community Affairs Legislation Committee, 2026, p. 12).

MIFA is now responding to a consultation that will shape those rules. The consultation is not happening in a vacuum. It is happening as SCCP cuts begin to take effect, as eligibility is tightening, as 240,000 people are expected to move off the scheme, and as replacement community mental health supports remain uncommitted. This is not abstract policy discussion. This is the mechanism that will determine whether people with psychosocial disability stay in or exit the NDIS. This must be explicit in government's thinking.

At a public hearing before the Senate Committee on 31 July 2026, the Mental Illness Fellowship of Australia gave evidence on this specific problem. We were asked how the permanence test would apply to people with psychosocial disability. Our response:

"If somebody with a psychosocial disability sits in front of an assessor, they may present functional in that assessment, and in another moment they may be significantly impacted by their psychosocial disability. So, if government plans to pass this particular part of this bill for permanence tests, it is our strong recommendation that it is done with the subject matter expertise of those who understand psychosocial disability best and the episodic and fluctuating nature of psychosocial disability" (Mental Illness Fellowship of Australia, 2026a).

The Senate Committee's final report explicitly cited this evidence:

"The committee also received evidence that some disabilities, while permanent, may manifest in an episodic or fluctuating way, which might lead an assessor to question the permanence of a person's impairment. Mental Illness Fellowship Australia told the committee that: If somebody with a psychosocial disability sits in front of an assessor, they may present functional in that assessment, and in another moment they may be significantly impacted by their psychosocial disability." (Senate Community Affairs Legislation Committee, 2026)

This is not a MIFA invention. The Explanatory Memorandum that accompanied the Bill acknowledges that people with psychosocial conditions *"may require ongoing or intermittent treatment throughout their lives"* (Department of Health, Disability and Ageing, 2026). The EM acknowledges this provision explicitly. Yet the FCA framework being designed does not.

The treatment landscape for high-need mental health challenges is fundamentally different from the treatment landscape for physical disability. It is characterised by significant individual variability in response, contested evidence bases for specific interventions, and a clinical reality in which the absence of full treatment response does not establish permanence (Mental Illness Fellowship of Australia, 2026b). A person with schizophrenia might respond well to one medication and poorly to another. A person with complex trauma might engage with one therapeutic approach and not another. Someone with bipolar disorder might have periods of stability followed by acute episodes. The treatment landscape is not linear. Neither is the presentation of disability.

A functional capacity assessment conducted at a single point in time cannot capture this reality. Not even a single good day. It cannot distinguish between someone whose disability is intermittent and someone whose disability is not present. It cannot measure the cost of managing a condition that is episodic, including the anticipatory anxiety, the crash that follows a period of relative stability, the loss of employment or relationships that comes from unpredictable changes in functioning. These are real costs. They are real barriers to participation. They are not captured by asking someone how they functioned on a Tuesday morning.

If the FCA framework treats episodic presentation as evidence of non-permanence, or treats a good assessment day as evidence that someone does not need ongoing support, it will systematically exclude people whose disability is characterised by variability. That is not a bug in the system. That is the disability.

What Government Already Knows

The Senate Committee's final report, published on 16 August 2026, acknowledged this concern explicitly. In its discussion of permanence and appropriate treatment, the committee stated:

“The committee acknowledges concern among the disability community about how the new concept of "all appropriate treatment" could impose unwanted treatments and additional costs on people with disability and their families. The committee agrees that the amendments to the bill provide appropriate additional safeguards for people with disability by clarifying that applicants to the Scheme will not be required to undertake additional treatment beyond what is appropriate; restrictive practices such as forced medication are not included in the scope of "appropriate treatment"; and "appropriate treatment" must be available through Medicare, the Pharmaceutical Benefits Scheme, or the public health system.”
(Senate Community Affairs Legislation Committee, 2026, p. 34)

This is important. The committee heard evidence from multiple sources including the Mental Illness Fellowship of Australia, the National Mental Health Consumer Alliance, disability advocacy organisations, and many people with lived experience, about the risk that the permanence test could be used to force treatment choices, to question permanence when someone did not conform to a linear treatment pathway, and to penalise people for the treatment access failures that exist outside the NDIS.

The committee responded by acknowledging these concerns and noting that the amendments provided safeguards. But the committee also made explicit the gap that still remains:

The rules to be made under section 25A(5), which will determine how the permanence test applies to people with psychosocial disability, have not been developed or consulted on. These are not implementation details. They are the substance of the reform for this cohort.
(Senate Community Affairs Legislation Committee, 2026, p. 12)

Government now has an opportunity to design those rules in a way that reflects what the committee has already heard: that permanence must not be questioned because someone presents differently across time; that choice and control over treatment must be preserved; that access to treatment outside the NDIS should not be treated as evidence that someone does not need NDIS support; and that the framework must be designed with people who have actually lived episodic, fluctuating mental health challenges, not for them.

Chapter Three: Recommendations and Conclusion

Recommendations

MIFA is calling for the following in the design of the FCA framework for psychosocial disability:

Recommendation 1 Genuine co-design with people with lived experience and community mental health providers

The draft FCA framework must be co-designed, from the outset, with people with lived experience of psychosocial disability and community mental health providers. This is not an afterthought or a consultation that happens after the framework is drafted.

The United Nations Convention on the Rights of Persons with Disabilities, which Australia has ratified, requires that persons with disabilities be involved in the development and implementation of legislation that affects them. The principle is *"nothing about us, without us."* This applies to the FCA framework.

MIFA recommends that a dedicated psychosocial disability working group, convened by the Department and co-chaired by people with lived experience and community mental health providers, be established to guide FCA design before rules are finalised.

Recommendation 2: Explicit assessment protocols for episodic and fluctuating presentation

The FCA framework must include explicit guidance for assessors on how to assess people whose disability is episodic or fluctuating. This guidance should:

- Acknowledge that a single assessment snapshot does not capture episodic disability, and that evidence should include self-report data, clinician input, and longitudinal data about functioning across time
- Recognise that the absence of current impairment is not evidence of non-permanence, and that someone who is currently stable may still require ongoing support to manage their condition
- Explicitly state that variability in functioning is not a measurement error. It is part of the disability itself
- Provide clear decision rules for assessors about how to determine permanence in the context of treatment that is variable in response, and about how to measure the ongoing support needed to maintain stability

These protocols should be developed with input from people with lived experience and clinicians who work with people with psychosocial disability.

Recommendation 3: Evidence requirements that account for access failures and treatment complexity

The FCA framework should not penalise people for:

- The absence of formal diagnosis, where diagnosis has been delayed due to access failures in the mental health system
- Treatment that is complex, variable in response, or subject to access barriers outside the NDIS. This includes people in rural and remote areas who do not have access to psychiatrists or evidence-based psychologists, people with long waitlists for services, and people unable to afford out-of-pocket specialist assessment
- The decision not to pursue a particular treatment because it is unavailable, unaffordable, or because the person has made an informed choice not to pursue it
- Periods of disengagement from formal treatment, where that disengagement is explained by access barriers, system failures, or the person's own circumstantial changes (such as loss of employment, homelessness, or a change in housing)

The framework should explicitly acknowledge that the absence of treatment is not evidence that treatment is not needed. It may be evidence that treatment is not accessible.

Recommendation 4: Regional and remote equity

The FCA framework must not systematically disadvantage people in regional, rural and remote areas. The Department's own evidence acknowledges that gaps in statistical data may impact the quality of automated decisions regarding culturally and linguistically diverse people and people in remote areas (Senate Community Affairs Legislation Committee, 2026). The same applies to manual FCA decisions. MIFA recommends that:

- Assessors receive explicit training on how mental health disability presents and is supported in regional and remote settings, where the available treatment options, specialist services, and community supports are different from metropolitan areas
- Evidence requirements account for the reality that someone in a rural area may not have access to a psychiatrist or evidence-based psychologist, and that absence should not count against them in a permanence assessment
- MIFA and other peak bodies representing people with psychosocial disability and community mental health providers be consulted on how the framework will operate in regional, rural and remote areas before it is finalised.

Recommendation 5: Explicit acknowledgement of the SCCP cuts and how they compound access barriers

This FCA consultation is not happening in a vacuum. The SCCP funding cuts are beginning to take effect. For people with psychosocial disability, these are not discretionary supports. They are foundational to recovery, employment, participation, and preventing crisis. MIFA recommends that:

- The FCA framework must explicitly acknowledge that SCCP cuts will narrow supports for people with psychosocial disability outside plan-funded support. This narrowing must never be treated as evidence that NDIS support is not needed. Government must demonstrate that replacement services are funded, staffed and available in communities before any further narrowing of NDIS access occurs.
- Government commit to publishing impact data on the SCCP cuts before further narrowing of NDIS access is implemented
- The FCA framework include explicit guidance that the framework must not be used to substitute for SCCP supports, that is, that the framework must not narrow access to the NDIS on the assumption that SCCP or community-based services will fill the gap

Where MIFA Goes From Here

A vote in Canberra does not end MIFA's advocacy. The Bill has passed. The SCCP cuts are law. Now we move from opposing the cuts to requiring the government to demonstrate, with evidence, that the changes it has made are not causing harm. And, if they are, to reverse them.

MIFA will continue advocating on four fronts:

1. **On the permanence test and FCA:** The rules under section 25A(5) will be built with people who have actually lived episodic, fluctuating mental health challenges, not for them. Those deciding eligibility must have specific subject matter expertise on psychosocial disability. MIFA will participate in the co-design process and will ensure that the final rules reflect the reality of psychosocial disability.

2. **On the SCCP cuts:** MIFA never believed the cuts to social and community participation supports should have happened at all. Now that the Bill has passed, policymakers owe the people affected an honest, public account of what this actually does to someone with psychosocial disability. Not modelling produced after the fact, but a proper reckoning, done before more damage lands.

3. **On Foundational Supports:** MIFA will keep advocating for Foundational Supports that are funded and scaled to reality, not to the modelling that made the cuts look manageable. Government must demonstrate, region by region and not just state by

state, that the services meant to catch people as they exit the NDIS are actually funded, staffed and operational across cities, suburbs, and remote areas. Without that, there is no national coverage. Without that, the 240,000 people with psychosocial disability moving off the NDIS by 2031 will have nowhere to land.

4. **On the next National Mental Health and Suicide Prevention Agreement:** MIFA will keep advocating to ensure psychosocial supports are prioritised, protected and properly funded in the next NMHSPA, because the Bill has just made that agreement matter more, not less. A system already strained, with half a million Australians lacking adequate support, cannot absorb simultaneous NDIS tightening and SCCP cuts without breaking. Without equivalent capacity built in community mental health, this will widen service gaps and push vulnerable people into crisis.

Closing Statement

MIFA welcomes this consultation at a moment when its stakes are clear. The SCCP cuts are law. The permanence test is legislated. The FCA framework will determine who stays in and who gets pushed out of the NDIS by 2031.

We will bring evidence and lived experience. We will hold government to what it already knows: that episodic and fluctuating disability is real; that choice and control matter; and that NDIS access for people with psychosocial disability must be protected, designed with them, not for them, and not in a way that compounds the damage already done. The outcome of this consultation will show whether government is willing to act on that knowledge.

We will keep advocating until the FCA framework is designed on the evidence and lived experience of people with psychosocial disability, their families, carers, and the community mental health organisations working with them every single day.

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