

EXPLANATORY STATEMENT

Issued by the authority of the Minister for the National Disability Insurance Scheme

A New Tax System (Goods and Services Tax) Act 1999

A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021

Purpose

Subsection 177-10(5) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) provides that the Disability Services Minister may, by legislative instrument, make a determination for the purposes of paragraph 38-38(d) of the GST Act.

The purpose of this instrument is to repeal and replace the *GST-free Supply (National Disability Insurance Scheme Supports) Determination 2017* (the 2017 Determination) with the *A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021* (the Determination) to align with best practice drafting standards and extend the effect of the application of the 2017 Determination to 30 June 2025.

The Determination specifies which kinds of supplies to a participant of the National Disability Insurance Scheme (NDIS) are GST-free, subject to the supply meeting the other conditions prescribed by section 38-38 of the GST Act. The Determination does not make any substantive changes to the operation of the 2017 Determination.

The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Background

Supplies of various disability supports are GST-free under provisions in Subdivision 38-B of the GST Act where the supplier receives government funding for the supplies. However, under the NDIS, government funding for some of these disability support types is not provided to the suppliers. Instead, funding is provided to the NDIS participant or another person managing the funding for the participant.

The Determination ensures that certain supplies to an NDIS participant are GST-free where the supply is of a kind determined by the Disability Services Minister and the supply meets the other requirements of section 38-38 of the GST Act. Broadly, section 38-38 also requires that the supply is of one or more reasonable and necessary supports specified in the participant's plan and that the supply meets certain substantiation requirements. The operation of section 38-38 of the GST Act

is outlined in the Explanatory Memorandum to the Tax Laws Amendment (2013 Measures No. 2) Bill 2013.

If a supply of disability support made to a participant is not GST-free under section 38-38 of the GST Act, it may still be GST-free under another section of the GST Act, for example, under the GST-free health related sections in Subdivision 38-B.

Commencement

The Determination commences on 1 July 2021.

Consultation

This legislative instrument has been prepared in consultation with Department of the Treasury, which is the portfolio agency responsible for administering the *A New Tax System (Goods and Services Tax) Act 1999*.

As any law which affects the administration of GST binds each of the states and territories, consultation was also undertaken with all states and territories through established governance forums managed by the Department of the Treasury. Consultation was also undertaken with the Australian Taxation Office.

As the GST-free treatment of NDIS supports are not changing, wider consultation was not considered to be necessary.

The Department of Social Services, Department of the Treasury, states and territories and affected agencies will continue to monitor the impact of the Determination.

Regulation Impact Statement (RIS)

A RIS is not required for this legislative instrument (OPBR ID 44056).

This legislative instrument will have minor or no regulatory impacts on business, community organisations or individuals, as assessed under the Commonwealth Regulatory Burden Measurement framework.

Compliance with legislative preconditions

Subsection 177-10(5) of the GST Act provides that the Disability Services Minister may, by legislative instrument, make a determination for the purposes of paragraph 38-38(d) of the GST Act. Section 195-1 of the GST Act provides that the Disability Services Minister means the Minister administering the *National Disability Insurance Scheme Act 2013*.

Explanation of the provisions

Section 1 - Name

This section provides how the instrument is to be cited, that is, as the *A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021* (the Determination). This name is designed to reflect standard naming practices for determinations.

Section 2 - Commencement

Section 2 sets out a table providing for the commencement of the Determination, that is, 1 July 2021.

Section 3 - Authority

Section 3 provides that the Determination is made under subsection 177-10(5) of the GST Act.

Section 4 - Schedules

Section 4 provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 repeals the 2017 Determination (see below).

Section 5 - Definitions

Section 5 provides a definition of 'Act' for the purposes of the Determination, which is defined to mean *A New Tax System Goods and Services Tax) Act 1999*. It also identifies relevant definitions in the GST Act and the *National Disability Insurance Scheme Act 2013*.

Section 6 - Kind of supplies

Section 6 sets out the supplies of a kind that are GST-free where the supply meets the other conditions set out in section 38-38 of the GST Act. Section 6 is intended to reflect the kinds of supplies of disability supports that are GST-free where the supplier receives NDIS funding for the supplies. Examples of the supplies covered by the Determination are included in **Attachment A**.

Subsections 6(1) and (2) replicate sections 3 and 4 of the 2017 Determination, and have been amended to comply with best practice drafting standards and to better reflect the language of paragraph 38-38(d) of the GST Act. To improve the readability of the Determination, Schedule 1 and Schedule 2 to the 2017 Determination now appear in tables directly proceeding subsections 6(1) and (2) respectively. Section 6 does not make any substantive changes to the operation of the 2017 Determination.

Subsection 6(1) provides that a supply of a support that is of a kind referred to in the table following the subsection, such as specialist disability accommodation and accommodation/tenancy assistance, interpreting and translation, and early intervention supports for early childhood, is a supply for the purposes of paragraph 38-38(d) of the GST Act. A supply of this kind is GST-free if the supply also meets the other requirements of section 38-38 of the GST Act.

The note at the end of subsection 6(1) clarifies that a supply mentioned in this subsection is GST-free, subject to satisfying the requirements prescribed by paragraphs 38-38(a) to (c) of the GST Act.

Subsection 6(2) further provides that a supply of a kind referred to in the table following the subsection and covered by any one of the determinations specified by paragraph 6(2)(b) is a supply for the purposes of paragraph 38-38(d) of the GST Act. Subsection 6(2) ensures that the kinds of supplies that have been determined to be GST-free under one of the three specified determinations will continue to be GST-free if the supplies are referred to in the table following the subsection and the supply also meets the other requirements of section 38-38 of the GST Act.

The kind of supplies referred to in the table include assistance with daily personal activities, behavioural support and therapeutic supports and home modifications. The determinations specified by paragraph 6(2)(b) are:

- (i) Schedule 1 to the *GST-free Supply (Care) Determination 2017*;
- (ii) section 6 of the *A New Tax System (Goods and Services Tax) (GST free Supply—Residential Care—Government Funded Supplier) Determination 2015*;
- (iii) section 6 or 7 of the *GST-free Supply (Health Services) Determination 2017*; and
- (iv) any later replacement determination, as in force from time to time, that has been made for the purposes of section 38-15, 38-25 or 38-30 of the Act.

The note at the end of subsection 6(2) clarifies that a supply referred to in the table and also covered by paragraph 6(2)(b) is GST-free, subject to satisfying the other requirements prescribed by paragraphs 38-38(a) to (c) of the GST Act.

Section 7 - Application

Section 7 provides that the Determination applies to supplies made on or after 1 July 2021 which are made on or before 30 June 2025.

Extending the effect of the 2017 Determination until 30 June 2025 is consistent with the Government's commitment to provide important assurance to NDIS participants and the disability sector about the ongoing GST treatment of supports under the NDIS.

Schedule 1 – Repeals

Schedule 1 repeals the whole of the 2017 Determination.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make any instrument of a legislative character, the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal any such instrument.

Types of supplies listed in the Determination

There are 14 kinds of supplies of supports listed in the tables directly proceeding subsections 6(1) and (2) of this Determination. These supplies are GST-free where the supply meets the other requirements of section 38-38 of the GST Act and they are listed below.

This Determination does not list all of the supplies of supports that can be GST-free when made to NDIS participants. There are other sections in the GST Act, including those under Subdivision 38-B (Health), that provide GST-free treatment to other types of disability supports.

Supplies listed in the table proceeding subsection 6(1)

Classes of Supports	Example	Description
1. Specialist disability accommodation (within the meaning of the National Disability Insurance Scheme rules) and accommodation/tenancy assistance	Specialist Disability Accommodation	Accommodation for NDIS participants who require specialist housing solutions to assist with the delivery of supports that cater for their significant functional impairment and/or very high support needs.
1. Specialist disability accommodation (within the meaning of the National Disability Insurance Scheme rules) and accommodation/tenancy assistance	Assistance with accommodation and tenancy obligations	Support provided to guide, support, prompt, or undertake on a participant's behalf, activities to ensure they obtain or retain appropriate accommodation. This can include assisting them to apply for a rental tenancy and undertaking tasks required of a tenant.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Coordination of complex supports	Support that focuses on strengthening the participant's ability to coordinate their supports and assists them to live and participate in their community. This can include resolving points of crisis, developing capacity and resilience in the participant's network as well as coordinating supports where they are provided by a complex range of mainstream informal networks and formal services.
2. Assistance in coordinating or	Life/transition	A time limited support that

managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	planning	works to assist the participant, together with family and carers, to develop a vision for a meaningful life and plan for their needs as needs and circumstances change over time.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Mentoring and peer support	Assistance either within the home or community to attend appointments, shopping, bill paying, social activities, maintaining social contact with others.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance in a host family or alternative family situation	Daily living support provided in the host family's own home for a defined period of time.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance in a shared living arrangement (hourly rate per person)	Daily living support provided in a shared living arrangement.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance in a shared living arrangement for 2 to 7 or more persons - standard	Assisting with and/or supervising tasks of daily life to develop the skills of individuals with standard (or mixed) support needs to live as autonomously as possible.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance in a shared living arrangement for 2 to 7 or more persons - complex needs	Assisting with and/or supervising tasks of daily life to develop the skills of individuals with complex support needs to live as autonomously as possible.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance in a shared living arrangement for 3 to 7 or more persons - lower needs	Assisting with and/or supervising tasks of daily life to develop the skills of individuals with lower support needs to live as autonomously as possible.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Assistance with self-care and other activities provided in residential aged care facility	Assistance with self-care and other activities provided in residential aged care facility.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Outside of School Hours Care for Teenagers with Disability	Outside of School Hours Care for Teenagers with Disability required due to the additional needs related to their disability.
2. Assistance in coordinating or	Overnight	Assistance with self-care and

managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	assistance in a centre or group residence	other activities provided in centre or group residence.
2. Assistance in coordinating or managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement	Vacation care	Vacation care required due to additional needs related to disability.
3. Household tasks	Assistance with specialised equipment for household tasks	Assistive technology to enable the participant to undertake household tasks.
3. Household tasks	Delivered meals	Delivery of prepared meals to a participant who is unable to prepare meals for themselves, including with other forms of assistance.
3. Household tasks	House and/or yard maintenance	Performing essential house and or yard activities that the participant is not able to undertake.
3. Household tasks	House cleaning	Performing essential house cleaning activities that the participant is not able to undertake.
3. Household tasks	Linen service	Provision of clean linen to a participant who is unable to do their own laundry for themselves, including with other forms of assistance.
4. Assistance with and training in travel / transport arrangements, excluding taxi fares	Specialised transport to school/ educational facility/ employment/ community	Transport required to get a person with disability to school/educational facility/employment/community when they are unable to travel by other means due to their disability.
4. Assistance with and training in travel / transport arrangements, excluding taxi fares	Transport fares, excluding taxi fares	Fares for specialised accessible transport provided when a person with disability is unable to travel by public transport or other means due to their disability (excluding taxi fares).
4. Assistance with and training in travel / transport arrangements, excluding taxi fares	Public transport training and support	Training in the use of public transport.
4. Assistance with and training in travel / transport arrangements, excluding taxi fares	Specialised driving training and testing	Training in driving using adapted equipment or vehicle modification by a Driver Trained Occupational Therapist.

5. Interpreting and translation	Auslan or Signed English Interpreting	Formal interpreting for Auslan or signed English.
5. Interpreting and translation	Live captioning	Captioning completed in person.
5. Interpreting and translation	Remote captioning	Captioning done remotely.
5. Interpreting and translation	Interpreting	Interpreting.
5. Interpreting and translation	Translating	Translating.
6. Assistance to access and maintain education and employment	Assistance to participate in educational activities	Assistance to participate in educational activities due to the impact of the person's disability.
6. Assistance to access and maintain education and employment	Personal assistance to support educational activities	Personal assistance with self-care in an educational setting.
6. Assistance to access and maintain education and employment	Transition from school to further education	Provision of skills training, advice, assistance with arrangements, orientation to assist a person with disability moving from school to further education.
6. Assistance to access and maintain education and employment	Transition to school - program design, planning and implementation	Specialised assistance in planning and transitioning to school.
6. Assistance to access and maintain education and employment	Assistance to transition from school to work	Provision of skills training, advice, assistance with arrangements, orientation to assist a person with disability moving from school to work.
6. Assistance to access and maintain education and employment	On the job training and support in the open labour market	Training and support in the workplace required due to the person's disability and where the support is not provided by the employer or employment programs.
6. Assistance to access and maintain education and employment	Specialised assistance to gain employment in the open labour market	Additional assistance required by a person with disability because of their disability in order to obtain a job.
6. Assistance to access and maintain education and employment	Specific disability related employment readiness training	Training required due to the person's disability that assists the participant to be ready for employment.
6. Assistance to access and maintain education and employment	Assistance in specialised (supported) employment (hourly rate)	Specialised assistance in a supported employment environment.
6. Assistance to access and maintain education and employment	Participation in a supported employment program	Work in place of employment with tasks specifically set up for people with disabilities.

7. Assistive equipment for recreation	Assistive products for audio visual pursuits	Interfaces that allow a person with disability to access recreational gaming equipment when unable to do so through conventional routes.
7. Assistive equipment for recreation	Assistive products for other recreational activities	Products such as card holders, camera holders and adaptations to enable a person with disability to participate in recreational activity.
7. Assistive equipment for recreation	Assistive products for play	Toys and books adapted with switches or other adaptations to enable a child or young person with disability to use them.
7. Assistive equipment for recreation	Assistive products for sport	Specialist wheelchairs, prostheses etc. which enable a person with disability to participate in sport.
7. Assistive equipment for recreation	Environmental control for electronic leisure access	Interfaces which enable a person with disability to activate standard household audio visual equipment by switch scanning voice or eye gaze.
7. Assistive equipment for recreation	Spare parts for assistive equipment for recreation	Spare parts required for the repair and maintenance of specialised recreation equipment.
8. Early intervention supports for early childhood	Specialised group early childhood interventions	Group multidisciplinary early childhood interventions and family focussed information and training.
8. Early intervention supports for early childhood	Transdisciplinary early childhood interventions	Transdisciplinary early childhood interventions and individual/ family focussed information and training.
8. Early intervention supports for early childhood	Specialised individual therapy for early childhood	Specialised individual therapy for children with Autism.
9. Management of funding for supports in a participant's plan	Financial intermediary - set up costs	The setting up of the financial management arrangements for managing of funding of supports.
9. Management of funding for supports in a participant's plan	Financial intermediary monthly processing	The ongoing maintenance of the financial management arrangements for managing of funding of supports.
9. Management of funding for supports in a participant's plan	Financial and service intermediary set up costs	The setting up of the financial management and service intermediary arrangements for

		managing of funding of supports.
9. Management of funding for supports in a participant's plan	Financial and service intermediary activities	Undertaking regular liaison with providers, setting up and monitoring support provision.

Supplies listed in the table proceeding subsection 6(2)

The classes of supports listed in subsection 6(2) to this Determination are restricted to those which are also listed in the following Determinations:

- (i) Schedule 1 to the *GST-free Supply (Care) Determination 2017*;
- (ii) section 6 of the *A New Tax System (Goods and Services Tax) (GST free Supply—Residential Care—Government Funded Supplier) Determination 2015*;
- (iii) section 6 or 7 of the *GST-free Supply (Health Services) Determination 2017*; and
- (iv) any later replacement determination, as in force from time to time, that has been made for the purposes of section 38-15, 38-25 or 38-30 of the Act.

1. Assistance with daily personal activities	Active overnight assistance with self-care	Assisting with, and/or supervising, personal tasks of daily life to develop skills of the participant to live as autonomously as possible.
1. Assistance with daily personal activities	Assistance from live-in carer	A person lives in the house of, or travels with the participant and provides assistance with, and/or supervision of, personal tasks of daily life to develop skills of the participant to live as autonomously as possible.
1. Assistance with daily personal activities	Assistance with self-care activities (daytime on weekdays, weekday evenings, on Saturday, Sunday or Public Holidays, or sleepover inactive)	Assisting with, and/or supervising, personal tasks of daily life to develop skills of the participant to live as autonomously as possible.
1. Assistance with daily personal activities	Specialised child care at home	Specialist childcare in the home required due to the additional requirements of the child's disability.
1. Assistance with daily personal activities	Assistance with household tasks	Assisting the participant to live as autonomously as possible by assisting them to actively participate in, and/or develop skills to

		maintain their home environment. This includes assisting the participant to manage their budget, with personal communication and basic household and yard maintenance activities.
2. Specialised assessment and development of daily living and life skills, including community participation	Assistance to access community, social and recreational activities - individual –weekdays or weekends (if provided in a day care centre or to a resident of a residential care facility)	Provision of support to enable a participant to independently engage in community, social and recreational activities during the week or on weekends. The service must be provided in a day care centre or to a resident of a residential care facility.
2. Specialised assessment and development of daily living and life skills, including community participation	Assistance with selection/ adaptation of specialised recreation equipment	Provision of specialised equipment to enable a participant to engage in community, social and recreational activities.
2. Specialised assessment and development of daily living and life skills, including community participation	Development of skills for community, social and recreational participation	Training or skills development to enable a participant to independently engage in community, social and recreational activities.
2. Specialised assessment and development of daily living and life skills, including community participation	Group based activities - core (if provided in a day care centre or to a resident of a residential care facility)	Social and recreational activities in a centre based program. The service must be provided in a day care centre or to a resident of a residential care facility.
2. Specialised assessment and development of daily living and life skills, including community participation	Group based activities - higher intensity (if provided in a day care centre or to a resident of a residential care facility)	Social and recreational activities in a centre based program for participants with complex support needs. The service must be provided in a day care centre or to a resident of a residential care facility.
2. Specialised assessment and development of daily living and life skills, including community participation	Group based community, social and recreational activities (if provided in a day care centre or to a resident of a residential care facility)	Provision of support to enable a participant to engage in community, social and recreational activities in a group. The service must be provided in a day care centre or to a resident of a residential care facility.
2. Specialised assessment	Community, social and	Provision of support to

and development of daily living and life skills, including community participation	recreational activity costs (if provided in a day care centre or to a resident of a residential care facility)	enable a participant to independently engage in community, social and recreational activities when the cost of participation exceeds an affordable level and without which the participant would be at risk of social isolation. The service must be provided in a day care centre or to a resident of a residential care facility.
2. Specialised assessment and development of daily living and life skills, including community participation	Specialist assessment of skills, abilities and needs	Specialised assessment by a professional.
2. Specialised assessment and development of daily living and life skills, including community participation	Assessment and recommendation of continence aids	Assessment, selection, training on equipment for people with incontinence.
2. Specialised assessment and development of daily living and life skills, including community participation	Assessment for personal hearing devices	Assessment, selection, training on equipment for people with a hearing impairment.
2. Specialised assessment and development of daily living and life skills, including community participation	Hearing assessment by Audiologist	Hearing test undertaken by an audiologist.
2. Specialised assessment and development of daily living and life skills, including community participation	Workplace assessment	Assessment of workplace to evaluate/ recommend adjustments required to enable successful access by persons with disability.
2. Specialised assessment and development of daily living and life skills, including community participation	Group based training/ skills development in daily personal activities	Training for the participant to increase their independence in personal care.
2. Specialised assessment	Group social skills	Social skills development in

and development of daily living and life skills, including community participation	development	a group.
2. Specialised assessment and development of daily living and life skills, including community participation	Individual social skills development	Social skills development with an individual.
2. Specialised assessment and development of daily living and life skills, including community participation	Individual life and personal skills development	Individual training/ skills in general life skills to increase independence.
2. Specialised assessment and development of daily living and life skills, including community participation	Training in Auslan and other communication techniques	Training in the use of Auslan and other communication techniques.
2. Specialised assessment and development of daily living and life skills, including community participation	Assistance in the form of training for carers	Training for carers in matters related to caring for a person with disability.
2. Specialised assessment and development of daily living and life skills, including community participation	Training in planning and plan management	Training in planning and plan management for participants unable to do this independently but who could do all or part of the task with training.
2. Specialised assessment and development of daily living and life skills, including community participation	Assistance in the form of parenting training relating to disability	Provision of parenting training specifically targeted to parents of children with disabilities with a focus to assist them in their parenting role; assistance to children with disability in the form of parenting training.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Assessment and training using assistive products for orientation	Selection and training on mobility equipment for people with vision impairment.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and	Assessment, set up, training using transfer equipment	Use of hoists etc. by people with disability and their carers.

training		
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Selection and configuration of orthotics	Provision of orthotics for the arms, hands, legs, feet or body for people with a physical impairment.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Selection and configuration of prosthetics	Provision of prosthetic arms, hands, legs and feet for people with amputation or limb loss.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Selection, configuration or training for ambulant mobility equipment	Provision and training in the use of walking aids for people with disability.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Selection, configuration or training for wheeled mobility equipment	Provision and training in the use of wheelchairs, specialised strollers and mobility scooters for people with disability.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Fitting of hearing aids – binaural or monaural	Fitting of hearing aids to one or both ears.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Setting up of communication equipment (including items related to seeing, hearing, speaking and written word)	Assessment, selection, training on equipment for people with vision, hearing or communication impairments.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Electronic personal organisers and alarms	Electronic personal organisers and alarms set up to enable a person with disability to organise, plan and maintain a schedule when unable to do so by standard means due to their disability.
3. Assistive equipment for general tasks and leisure, including assistive technology specialist assessment, set up and training	Specialised seating and chairs	Chairs which have been specially adapted to enable people with disability to sit.
4. Behavioural support and therapeutic supports	Physiotherapy in a group (if provided to a resident of a	Delivery of physiotherapy support in a group setting to

	residential care facility)	develop or relearn postural and movement skills and functional movement patterns, seating and mobility support, positioning and movement in daily activities; and/or exercise and advice on physical activity. The service must be provided to a resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).
4. Behavioural support and therapeutic supports	Physiotherapy with an individual (if provided to a resident of a residential care facility)	Development of plan and/or delivery of physiotherapy to support the development or relearning of postural and movement skills and functional movement patterns; seating and mobility support; positioning and movement in daily activities; and/or exercise and advice on physical activity. The service must be provided to a resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).
4. Behavioural support and therapeutic supports	Audiology communication training (if provided to a resident of a residential care facility)	Training for persons with hearing impairments conducted by an audiologist, if provided to a resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).

4. Behavioural support and therapeutic supports	Counselling as part of a group	Facilitating self-knowledge, emotional acceptance and growth and the optimal development of personal resources through a group session. Assisting participants to gain their personal goals and gain greater insight into their lives.
4. Behavioural support and therapeutic supports	Counselling for an individual	Facilitating self-knowledge, emotional acceptance and growth and the optimal development of personal resources on a one to one basis. Assist participants to gain their personal goals and gain greater insight into their lives.
4. Behavioural support and therapeutic supports	Group multidisciplinary approaches (if provided to a resident of a residential care facility)	Provision of interventions by more than one professional in a group session towards the participants agreed goals, if provided to a resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).
4. Behavioural support and therapeutic supports	Speech and Language Pathology in a group or with an individual (if provided to a resident of a residential care facility)	Provision of speech and language pathology support to optimise the participant's ability to understand information, express thoughts and needs and communicate with others; enhancing the environment to support to ensure safe and effective mealtime support for participants who have difficulty with feeding and swallowing; developing skills of communication partners to support participant with complex communication support needs to communicate effectively. The service must be provided to a

		resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).
4. Behavioural support and therapeutic supports	Therapeutic program delivered by therapy assistant (if provided to a resident of a residential care facility)	Implementation of a therapeutic intervention that was planned by a professional therapist and is delivered by a therapy assistant under the direction of the therapist, if provided to a resident of a residential care facility. Some services may be GST-free, including for individuals who do not reside in a residential care facility, under section 38-10 of the GST Act (about other health services).
4. Behavioural support and therapeutic supports	Behaviour support/management plan	Development of a planned approach to facilitating and promoting strategies to create better lives for people to limit the likelihood of behaviours of concern developing or increasing. Assisting the participants and others who support them to identify why the participant is engaging in behaviour of concern or harmful to them or others and designing person specific positive behaviour support strategies for implementation by carers and support workers.
4. Behavioural support and therapeutic supports	Group therapy, family group therapy	Interventions in relation to psychosocial or relational issues required due the person's disability.
4. Behavioural support and therapeutic supports	Intensive behavioural intervention support	Development of highly specialised intensive behavioural support interventions to address significant harmful or persistent behaviours of

		concern. Development of behavioural support plans that include restrictive practices with the intention to minimise or reduce the use of these practices.
4. Behavioural support and therapeutic supports	Assistance in the form of training for carers and others in behaviour management strategies	Training for carers and others in behaviour management strategies required due to the person's disability.
5. Home modifications	Environmental control unit and structural changes	Installation of software, equipment and automated locks, door openers etc. to enable a person with disability to access the home via voice or adapted switch.
5. Home modifications	Kitchen modifications	Modifications to a kitchen to enable a person with disability to access and use it.
5. Home modifications	Minor modifications (i.e. small step ramps, grab rails and kitchen adaptations)	Smaller modifications to aspects of a home to allow or improve access by a person with disability.
5. Home modifications	Modifications to other areas of the home (i.e. bathroom, laundry, bedroom etc.)	Modifications to a bathroom, laundry, bedroom etc. to enable a person with disability to access and use it.
5. Home modifications	Ramps for access	Provision of ramps for people with walking impairments or for people who use wheeled mobility aids.
5. Home modifications	Home modifications project manager or building certifier	Project manager or building certifier employed to ensure compliance with modifications plans to allow home access by persons with disability.
5. Home modifications	Builder for home modifications	Builder employed to implement modifications to allow home access by person with disability.

Attachment B - STATEMENT OF COMPATABILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021

The *A New Tax System (Goods and Services Tax) (GST-free Supply—National Disability Insurance Scheme Supports) Determination 2021* (the Determination) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative instrument

The Determination is made under paragraph 38-38(d) of the *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act) and specifies which kinds of supplies to a participant of the National Disability Insurance Scheme (NDIS) are GST-free if the supply meets the other conditions in section 38-38 of the GST Act.

The purpose of the Determination is to repeal and replace the *GST-free Supply (National Disability Insurance Scheme Supports) Determination 2017* (the 2017 Determination).

The Determination specifies 14 kinds of supplies of supports to NDIS participants that are GST-free if the supply meets the other conditions in section 38-38 of the GST Act. The first nine categories cover specific classes of NDIS supports such as Specialist Disability Accommodation, household tasks and assistive equipment. The remaining five kinds of supplies of supports are also GST-free if they are covered by one of three other specified determinations and the supply meets the other conditions in section 38-38 of the GST Act.

The Determination repeals and replaces the 2017 Determination to align with best practice drafting standards and extend the effect of the application of the 2017 Determination to 30 June 2025. This Determination does not make any substantive change to the operation of the 2017 Determination.

Human rights implications

This Determination engages the right to social security.

This Determination promotes Article 9 of the *International Covenant on Economic, Social and Cultural Rights* and Article 28 of the *Convention on the Rights of Persons with Disabilities* through the reduction of tax burdens on NDIS participants in purchasing disability supports and on disability support providers in their provision of services.

The Determination promotes the right to social security by ensuring that supplies of these kinds of supports are not taxed. This will support participants to maximise the benefits of their NDIS funding to increase their social and economic participation and pursue their goals and aspirations.

Conclusion

The Determination is compatible with human rights as it promotes the right to social security.