# 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:

1. Schedule 1 to the *GST-free Supply (Care) Determination 2017*;
2. section 6 of the *A New Tax System (Goods and Services Tax) (GST free Supply—Residential Care—Government Funded Supplier) Determination 2015*;
3. section 6 or 7 of the *GST-free Supply (Health Services) Determination 2017;*and
4. 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.

# ATTACHMENT A

## 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 managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement | Life/transition planning | A time limited support that 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 managing life stages, transitions and supports, including daily tasks in a group or shared living arrangement | Overnight assistance in a centre or group residence | Assistance with self-care and 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:

1. Schedule 1 to the *GST-free Supply (Care) Determination 2017*;
2. section 6 of the *A New Tax System (Goods and Services Tax) (GST free Supply—Residential Care—Government Funded Supplier) Determination 2015*;
3. section 6 or 7 of the *GST-free Supply (Health Services) Determination 2017*; and
4. 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. |
| 1. 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 and development of daily living and life skills, including community participation | Community, social and recreational activity costs (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 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 and development of daily living and life skills, including community participation | Group social skills development | Social skills development in 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. |
| 1. 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 training | Assessment, set up,  training using transfer equipment | Use of hoists etc. by people with disability and their carers. |
| 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. |
| 1. Behavioural support and therapeutic supports | Physiotherapy in a group (if provided to a resident of a residential care facility) | Delivery of physiotherapy support in a group setting to 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. |
| 1. 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)andspecifies 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 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.