

## Annex C. HWSN's full story

HWSN<sup>1</sup> is the type of child that the government expects to divert from the NDIS into the Thriving Kids program even though he is severely/profoundly autistic. The NDIS did not recognise his autism; his record (in evidence to the ART) shows the NDIS recorded his disability type incorrectly as Developmental Delay.

HWSN's application to the NDIS was confirmed on 27/1/2023. And on 31/1/2023, his clinicians referred him for an autism assessment with Westmead CDU.

On 21/2/2023, a NDIS early childhood partner (gatekeeper), Northcott EGA Intake Team Leader who has no discernible clinical qualifications, reported ...

*Evidence that the child **does not** meet the criteria for developmental delay*

*Developmental concerns have been identified, however [HWSN] is not likely to meet Access to the NDIS under the definition of developmental delay. The early childhood partner will discuss available supports including connection to a range of mainstream and community services and short term early intervention.*

The NDIS gatekeeper denied HWSN entry to the NDIS.


It took HWSN's mother until 14/7/2023 to overcome this eligibility barrier. HWSN's first NDIS Plan started from 21/8/2023. HWSN's mother requested an internal NDIS review of the plan on 25/8/2023 and it affirmed the NDIS's original decision on 18/10/2023. HWSN's mother applied for an AAT review on 2/11/2023.

In its Statement of Facts, Issues and Contentions (SFIC), the NDIS claimed that HWSN entered the Scheme based on having global developmental delay (GDD) ... which is a distinct diagnosis/condition from developmental delay (DD). There is no evidence to support the NDIS's claim that HWSN was a participant with GDD as his primary disability type.

HWSN's first ASD Level 3 diagnosis is dated 3/7/2024. Westmead CDU confirmed his diagnosis 21/10/2024. The reports were also provided to the NDIS.

Evidence in [HWSN and National Disability Insurance Agency \(NDIS\) \[2025\] ARTA 1816](#) (15 September 2025) show that the NDIS did not recognise his autism, nor update his disability type record.

- there were two TAPIB reports (evidence items R1 & R2) showed HWSN's condition as developmental delay (not GDD as the Respondent's SFIC claimed).
- HWSN's record (evidence item R3) as of 9/7/2025 showed his condition was still developmental delay

Primary	
Reported Impairment	Assessed Impairment
 Developmental delay (under 6 years of age only)	F84.90 - Developmental delay [not to be used over 6 years of age]

<sup>1</sup> HWSN is a pseudonym given by the AAT/ART to protect privacy.

As the ART hearing approached, both NSW Legal Aid and an NDAP advocate advised HWSN's family that their case had no prospect of winning, that they should accept the NDIS's offer (as documented in HWSN v NDIA – link above).

The family took HWSN's case to the Tribunal. The outcome ([Tribunal decision, 15/9/2025](#)) provided most (if not all if the plan outcome is sufficiently flexible) the support they requested.

The Tribunal decision lightly documents the NDIS's 'alarming' approach to HWSN and his family: paragraph 24 in the decision observes

24. The respondent contends that the requested level of support appears to be based on liberating the applicant's mother from her caring role/parental responsibility and thus runs counter to section 34(1)(e).

The Tribunal wrote:

89. The Tribunal agrees with the submission made by the applicant's representative, that what the respondent suggests is reasonable to expect from families and carers is 'alarming.' The Tribunal does not accept the respondent's criticisms of the applicant's mother or father. It is clear from the evidence that the applicant's parents do not know how to manage his extreme behaviours, they are in crisis, and [mother] is at risk of carer burnout.

While the NDIS regards HWSN as a child who should be excluded from the NDIS and sent to Thriving Kids instead, the ART as an independent reviewer decided in its decision that the child needs a very substantial level of support from the NDIS. However, he will be thrown back into the NDIS's view of what he needs in less than 6 months.

In the matter, the Member noted that HWSN was approaching school age so his early intervention warranted some urgency ... apparently ignoring the mother's evidence that she expected he would be exempted from school for 12 months.

Despite concerns about the prospect of starting school, the Tribunal took over 60 days to provide its decision.

HWSN's new NDIS plan that contains the new Statement of Participant Supports (SoPS) described in the Tribunal's decision has some serious problems.

1. The Tribunal's decision gave a 14-day deadline for implementation. The NDIS created HWSN's new plan on 23/10/2025 – 24 days late. The Tribunal review process took over 2 years to deliver a NDIS plan for just 4 months ... and at least one month is a holiday period when supports will be very difficult to access.
2. The NDIS Act 2013 says that the participant, HWSN, write his goals but the goals in the new plan are not the goals that HWSN provided – they seem to be goals written by the NDIS.
3. It does not mention HWSN's diagnosis or the NDIS's assessment of his impairments. The "About me" information is mostly incorrect or very out-of-date.

4. The SoPS cannot be checked against the Tribunal's decision: although requested, the NDIS did not provide a detailed breakdown of the plan's components.

The Tribunal completely ignores serious breeches by the NDIS.

HWSN missed much of his early opportunity for skill development and school preparation. And the Tribunal denied him his opportunity to catch up by not reviewing the NDIS's original decision, not recognising his needs adequately, nor understanding advice from treating clinicians sufficiently. The Member incorrectly claimed she could not go back in time and address past failure to provide reasonable and necessary support – she said she could only go forward.

Failure/refusal to recognise or document past denial of reasonable and necessary supports does not deliver on the ART's s9 Objective of fairness and justice, nor improve Agency decisions.

The NDIS mis recorded HWSN's diagnoses – they misinterpreted information and treated him as if he had developmental delay, not severe/profound autism. HWSN is the type of child who will be wrongly caught up in the Thriving Kids program and will miss out on the supports he needs. As is often the case for matters involving young NDIS participants, HWSN's matter took the Tribunals far too long to decide. The legal maxim that *Justice delayed is justice denied* harks back to *Magna Carta* and is especially applicable for young NDIS participants.