Gmail [redacted]

[redacted] & NDIA - Directions ART: [redacted] [SEC=OFFICIAL]

Emma [redacted] Mon, Jun 8, 2026 at 8:45 AM

[redacted]

Dear Registrar,

I write in response to the Respondent's Amended Statement of Issues dated 5 June 2026.

The Applicant respectfully submits that the concerns raised by the Respondent are already addressed by the evidence before the Tribunal. The Applicant therefore opposes further evidence gathering and submits that **the matter is ready to progress to a hearing.**

1. The Applicant's Impairments Are Permanent

The Respondent accepts that Hypermobile Ehlers-Danlos Syndrome (hEDS) is inherently permanent but questions whether the resulting impairments can be considered permanent.

The medical evidence consistently confirms that the Applicant's impairments are permanent.

- [redacted] **(General Practitioner):** [redacted] states that the Applicant's impairments are "chronic, permanent, and unlikely to improve with standard medical treatment," that hEDS is a lifelong genetic condition with no cure, that available treatment options have been explored, and that ongoing treatment is directed toward symptom management rather than cure.
- [redacted] **(Osteopath)** [redacted] confirms that the Applicant's cervical instability is a direct manifestation of hEDS, that her limitations are "the direct and unavoidable consequence of a permanent structural impairment," that there are no curative or restorative treatment options available, and that ongoing treatment is focused on symptom control and preservation of function.
- [redacted] **(Treating Physiotherapist):** [redacted] confirms that the Applicant's condition is a "permanent disability and requires lifelong management". He notes there are "no medical treatments or surgeries that can 'cure' hEDS", and explicitly states that ongoing physiotherapy is required to "prevent injury and regression" and to "optimise her quality of life within the limitations of her condition," rather than to resolve the impairment.
- [redacted] **(Registered Psychologist):** Ms. [redacted] evidence reinforces the permanent nature of the impairments, noting that psychological intervention is required precisely because the Applicant is navigating "lifelong medical conditions" and "adjusting to her reduced capacity" given that "hEDS cannot be cured".
- **Specialist Handover to Physiotherapy:** Multiple treating specialists, have evaluated and ruled out surgical interventions. Evidence shows they have explicitly handed the Applicant's ongoing management over to conservative physiotherapy.

Ongoing Management Does Not Mean the Condition Is Not Permanent

The Respondent refers to the Applicant remaining on waitlists for a cardiologist and geneticist as evidence that permanency has not been established. However, the evidence before the Tribunal explicitly confirms these appointments are intended to investigate potential comorbidities and assist with long-term monitoring. They are not expected to provide curative or disease-modifying treatment.

The core issues before the Tribunal—permanency, functional impairment, participation restrictions, and support needs—are already comprehensively addressed by the existing evidence. The possibility of future diagnostic clarification or the identification of additional comorbidities does not diminish, delay, or negate the functional impacts currently evidenced by the Applicant's treating practitioners.

The Applicant submits that ongoing medical review is entirely consistent with Rule 5.6 of the National Disability Insurance Scheme (Becoming a Participant) Rules 2016, which expressly acknowledges that an impairment is permanent "even though the impairment may continue to be treated and reviewed after this has been demonstrated."

Final Statement on Permanence

The Applicant respectfully submits that the permanence of the underlying condition cannot be meaningfully separated from the permanence of impairments that treating practitioners consistently describe as direct consequences of that condition and its associated complications.

2. The Evidence Demonstrates Substantially Reduced Functional Capacity

The Respondent submits that it is not satisfied the Applicant has substantially reduced functional capacity.

The Applicant submits that the evidence consistently demonstrates substantial impairment across multiple domains. By way of example:

The Applicant cannot:

- work (economic participation).
- safely drive (mobility).

The Applicant:

- is frequently housebound (mobility and community participation).
- relies on others for transport and attendance at appointments (mobility and self-management).
- has difficulty washing her hair, preparing meals, cooking, cleaning the home, and completing routine household tasks (self-care).
- experiences cognitive fatigue, brain fog, and executive dysfunction, affecting her ability to manage appointments, medications, and daily responsibilities (self-management).
- experiences significant social isolation and reduced participation in family, social, and community activities (social interaction and participation).
- relies heavily on informal supports to perform daily activities and access the community (self-management and participation).

These limitations (and more) are consistently documented by the Applicant's treating physiotherapist, treating GP, treating psychologist, specialist osteopath, primary carer, and the Applicant herself.

The Applicant submits that the relevant question is whether the evidence demonstrates substantial functional impairment. The evidence before the Tribunal consistently demonstrates that it does. These impairments are not theoretical limitations. They are the practical realities of the Applicant's daily life and are consistently documented across multiple independent sources of evidence.

3. The Functional Capacity Assessment Should Be Given Significant Weight

The Respondent questions the weight that should be given to the Functional Capacity Assessment completed by [redacted]. The Applicant notes that physiotherapists are recognised by the NDIA as appropriate providers of disability evidence and that M[redacted] assessment utilised the WHODAS 2.0, which is identified by the NDIA as the preferred disability assessment tool for adults.

[redacted] Is a Treating Practitioner

[redacted] is not a one-off assessor engaged solely for the purpose of preparing a report. He has observed the Applicant's functioning over time across multiple aspects of her disability, including:

- mobility
- cervical instability
- pain
- fatigue
- functional decline
- thoracic outlet

The Assessment Was Not Based Solely on Self-Report

The report confirms that the assessment included:

- review of medical history
- clinical assessment
- clinical observation
- administration of the WHODAS 2.0 assessment tool

An Occupational Therapy Assessment Is Not Required

[redacted] bases his functional assessment on a longitudinal clinical history, having treated and observed the Applicant over an extended period.The Applicant notes that the NDIS Act does not require an Occupational Therapy assessment for access purposes. A point-in-time assessment by an NDIA-appointed Occupational Therapist unfamiliar with the fluctuating, complex nature of hEDS cannot replicate the accuracy of a specialised, long-term treating practitioner.

The relevant question is whether the evidence demonstrates substantial functional impairment. The Applicant submits that the evidence before the Tribunal already addresses this issue comprehensively.

4. The Evidence Demonstrates Reduced Social and Economic Participation

Prior to the progression of her disability, the Applicant:

- worked full-time
- drove independently
- maintained social relationships
- participated actively in family life
- engaged in community activities

Since May 2025, the Applicant has been unable to work and cannot drive due to the cumulative impact of her impairments. The Applicant is no longer able to participate in social relationships, family or community activities without significant support.

The evidence demonstrates substantial impacts on both social and economic participation.

5. The Evidence Demonstrates a Need for Ongoing Supports

The evidence before the Tribunal consistently demonstrates that the Applicant requires ongoing support to maintain safety, independence and participation. The Applicant's treating practitioners consistently describe her condition as permanent and requiring lifelong management. The Applicant submits that ongoing supports are required because support is necessary to maintain function, reduce deterioration, and enable participation in daily life.

6. Weight Given to the Evidence of the Treating Psychologist

The Respondent appears to place limited weight on the evidence of the Applicant's treating psychologist.

The Applicant submits that significant weight should be given to this evidence. This ongoing therapeutic relationship has given the psychologist direct insight into the practical impact of the Applicant's impairments on participation, independence, self-management, support needs, and daily functioning.

While the Applicant's psychologist is not providing evidence regarding the physical diagnosis of hEDS, she is uniquely placed to comment on the real-world consequences of the Applicant's impairments through an ongoing therapeutic relationship and regular clinical observation.

The Applicant submits that this longitudinal insight provides important evidence regarding the impact of her disability on participation, independence, social functioning, support needs, and capacity to manage the demands of daily life.

7. Consistency of the Evidence

The Applicant notes that the evidence before the Tribunal is notable for its consistency. The Applicant's treating General Practitioner, treating Physiotherapist, treating Psychologist, treating Osteopath, primary carer, and the Applicant herself each describe the same functional limitations, participation restrictions, and ongoing support needs from different professional and personal perspectives.

While each practitioner approaches the Applicant's circumstances through a different clinical lens, there is broad agreement regarding the permanence of the condition, the nature of the functional impairments, and the need for ongoing support.

The Applicant submits that this consistency across multiple independent sources strengthens the reliability of the evidence and supports a finding that the access criteria are satisfied.

8. Further Evidence Gathering Is Unnecessary

The Tribunal already has evidence from:

- the Applicant's treating GP
- treating physiotherapist
- treating psychologist
- treating osteopath
- primary carer
- the Applicant herself

Collectively, this evidence addresses:

- diagnosis
- permanency
- treatment history
- functional impairment
- participation restrictions
- support needs

The Respondent's requests for further assessments appear to place limited weight on the evidence of the Applicant's existing treating team. The Applicant's care has been deliberately coordinated through highly specialised practitioners with expertise in hypermobile Ehlers-Danlos Syndrome and its associated complications. The Applicant submits that the evidence of practitioners with direct, ongoing, and specialist knowledge of her condition should be afforded significant weight when assessing functional impairment and support needs.

The Applicant respectfully submits that further targeted questioning and an Independent Medical Examination are unlikely to provide materially different information and would unnecessarily delay resolution of the proceedings.

9. Proposed Questions to Dr [redacted]

The Applicant notes that the Respondent proposes issuing questions to Dr [redacted] regarding diagnostic matters. However, this proposal appears to be based on a misunderstanding of Dr [redacted] role as described in the evidence before the Tribunal.

Dr [redacted] is *not* the diagnosing specialist for the Applicant's condition. As explained by Dr [redacted], Dr [redacted] assists with the ongoing management of the Applicant's condition, particularly in relation to symptom management and medication advice. He was not responsible for establishing the Applicant's diagnosis and does not occupy the role attributed to him in the Respondent's submissions.The Applicant is concerned that a request for diagnostic evidence from a practitioner who is not the diagnosing clinician suggests the Respondent may have misapprehended aspects of the evidence already before the Tribunal.

In those circumstances, the Applicant submits that the proposed questioning of Dr [redacted] is unlikely to assist the Tribunal in determining the issues in dispute and further supports the Applicant's position that the existing evidence has not been given sufficient weight.

10. Concerns Regarding Further Evidence Requests

The Applicant is concerned that the Respondent's requests for additional evidence arise from misunderstandings of evidence already provided, rather than genuine evidentiary gaps.

For example:

1. During the initial access process, the Applicant was informed that evidence from her treating General Practitioner could not be relied upon for the purposes of establishing access. It was only after a lengthy discussion with the NDIA that this position was reconsidered, despite GP evidence being routinely accepted within the NDIS framework.
2. The Respondent's suggestion that physiotherapy represents an unexhausted treatment pathway is inconsistent with the medical evidence before the Tribunal. From the outset of this matter, physiotherapy has consistently been described by the Applicant's treating practitioners as a maintenance intervention aimed at preserving function and preventing deterioration, rather than a treatment expected to restore function or alter the permanent nature of the Applicant's condition.
3. The Applicant notes that the internal review decision suggested that a future application should consider including a Functional Capacity Assessment. However, a Functional Capacity Assessment had already been submitted as part of the Applicant's access request. This recommendation may indicate that relevant evidence already before the decision-maker was not fully considered.
4. The Applicant notes that the Respondent's description of Dr [redacted] as the diagnosing specialist appears to be factually incorrect. The evidence records that the Applicant was diagnosed in May 2025, whereas Dr [redacted] first became involved in July 2025 in a management capacity.
5. The Respondent places significant weight on future specialist appointments, despite the evidence before the Tribunal already explaining that those appointments relate to ongoing management rather than treatment expected to substantially improve function.
6. The Respondent questions the weight that should be given to the Functional Capacity Assessment completed by [redacted] However, throughout this matter the Applicant has consistently identified physiotherapy as her primary form of management. [redacted] is a long-term treating practitioner with direct knowledge of the Applicant's functional capacity and completed a WHODAS 2.0 assessment, which the NDIA identifies as its preferred disability assessment tool for adults. The Applicant therefore finds it difficult to reconcile the Respondent's criticism of this evidence with the NDIA's own guidance regarding disability evidence and assessment.

The Applicant respectfully submits that these examples demonstrate a recurring pattern whereby evidence already before the decision-maker has not been fully understood or given appropriate weight, rather than any genuine absence of evidence addressing the relevant statutory criteria.

In those circumstances, the Applicant is concerned that further requests for evidence may be directed toward perceived gaps that have already been addressed by treating practitioners. The Applicant therefore submits that the focus should now be on assessing the substantial body of evidence already before the Tribunal to determine if the access criteria are met on the balance of probabilities, rather than seeking further evidence to address matters already comprehensively explained.

11. Proposed Path Forward

The Applicant is not aware of any issue raised by the Respondent that has not already been addressed, directly or indirectly, by the evidence currently before the Tribunal.

The Applicant respectfully submits that the evidentiary record is sufficiently complete for the Tribunal to determine the issues in dispute. When considered as a whole, the evidence establishes on the balance of probabilities that the access criteria in section 24 of the NDIS Act are satisfied.

Furthermore, in accordance with the Tribunal's statutory objective to resolve matters in a manner that is **accessible, fair, just, economical, informal, and quick,** the Applicant opposes further evidence-gathering directions and requests that the matter be listed for a Case Conference with a view to progressing to a hearing on the basis of the evidence already filed.

Kind regards,
Emma [redacted]

[Quoted text hidden]