



NACCHO

National Aboriginal Community
Controlled Health Organisation
Aboriginal health in Aboriginal hands

www.naccho.org.au

Aged Care Rules

Stage 3

Provider obligations

Submission to
Department of Health
and Aged Care

March 2025

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About NACCHO

NACCHO is the national peak body for Aboriginal and Torres Strait Islander health in Australia. We represent 146 Aboriginal Community Controlled Health Organisations (ACCHOs) and assist several other community-controlled organisations to improve health outcomes for Aboriginal and Torres Strait Islander people.

Our sector has more than fifty years' collective service. In 1971, Aboriginal people established the first Aboriginal medical service in Redfern, NSW. Mainstream health services were not working and there was an urgent need to provide decent, accessible health services for the medically uninsured Aboriginal population (pre-dating Medicare (1975)). Similar Aboriginal medical services quickly sprung up around the country. In 1974, a national representative body was formed to represent these Aboriginal medical services. That body has grown into what NACCHO is today.

NACCHO liaises with its membership (ACCHOs) and eight state/territory affiliates, governments, and other organisations, to develop policy, provide advice and advocate for better health and wellbeing outcomes for Aboriginal and Torres Strait Islander people. Together we address health issues including service delivery, information and education, research, public health, financing, and programs.

ACCHOs range from large multi-functional services employing several medical practitioners and providing a wide range of services, to small services which rely on Aboriginal health practitioners and/or nurses to provide the bulk of primary health care services. Our 146 members provide services from about 550 clinics. Our sector provides over 3.1 million episodes of care per year for over 410,000 people across Australia; about one million of these episodes of care are delivered in very remote regions.

ACCHOs contribute to improving Aboriginal and Torres Strait Islander health and wellbeing by providing comprehensive primary health care, and by integrating and coordinating care and services. They provide home and site visits; medical, public health and health promotion services; allied health; nursing services; assistance with making appointments and transport; help accessing childcare or dealing with the justice system; drug and alcohol services; and help with income support.

ACCHOs build ongoing relationships to provide continuity of care. This helps chronic conditions to be better managed and provides more opportunities for preventative health care. Through local engagement and a proven service delivery model, our clients 'stick'. Cultural safety in our services is a key factor of our success.

ACCHOs are also closing the employment gap. Collectively, we employ about 7,000 staff – 54 per cent of whom are Aboriginal or Torres Strait Islanders. This makes us the third largest employer of Aboriginal or Torres Strait people in the country.

Enquiries about this submission should be directed to:

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Acknowledgements

NACCHO welcomes the opportunity to provide a submission to this Consultation. We support submissions from our Affiliates and members. Our focus is on health and wellbeing for Aboriginal and Torres Strait Islander people and improving their ability to deliver and access culturally safe aged care.

We acknowledge support from the Office of the Interim First Nations Aged Care Commissioner and Aboriginal Health Council Western Australia (AHCWA) in preparing this submission.

Recommendations

NACCHO recommends:

1. the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

We reiterate our recommendations to the *Senate Inquiry into the Aged Care Bill 2024* which are also relevant to the Aged Care Rules, and recommend:

2. that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs to provide aged care services that support their local cultural and service delivery needs.
3. that Aged Care Rules support funding policy and mechanisms that recognise that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.

Specifically in relation to the Aged Care Rules Consultation – Stage 3, we recommend:

4. that an ideal model for Aboriginal and Torres Strait Islander aged care service delivery would be for ACCHOs to deliver Elder Care Support, aged care assessment and aged care services. This would provide a clear and culturally safe pathway for care, and continuity of care in a familiar and trusted environment.
5. that Aged Care Funding Rules support all aged care provider recommendations made by the Aged Care Royal Commission.
6. that Aged Care Rules and funding models support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live. This includes:
 - supporting Aboriginal Community Controlled organisations providers to enter thin markets as aged care providers
 - supporting Aboriginal Community Controlled Organisations, through funding and/or waivers and exemptions, to deliver aged care services and expand service delivery offerings in under-developed markets
 - supporting and/or compelling all providers to deliver culturally appropriate care.
7. in line with the Interim First Nations Aged Care Commissioner recommendations, rules regarding worker screening requirements should:

‘Allow Aboriginal Community Controlled Organisations to apply flexibility and discretion when conducting worker screening to keep older Aboriginal and Torres Strait Islander people safe while not inappropriately excluding Aboriginal and Torres Strait Islander people from employment.’¹

8. the relevant urgent and time sensitive recommendations of the Interim First Nations Aged Care Commissioner, which are for the government to:

Review the timeframe for the lifting of the exemption period for the requirement to have 24/7 registered nurses in National Aboriginal and Torres Strait Islander Flexible Aged Care facilities.

Ensure continuation of current arrangements for a workforce surge capacity to help Aboriginal Community Controlled Organisations to meet the 24/7 registered nurse requirement.

9. that in line with Priority Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled Aged Care providers of both home and residential aged care services.

NACCHO also supports the following:

- All Aged Care Royal Commission recommendations that pertain to aged care for Aboriginal and Torres Strait Islander people.
- Interim First Nations Aged Care Commissioner recommendations regarding aged care services in the *Transforming aged care for Aboriginal and Torres Strait Islander people*², report.

¹ Transforming aged care for Aboriginal and Torres Strait Islander people, (Urgent and Time Sensitive Recommendations), First Nations Aged Care Commissioner

² Transforming aged care for Aboriginal and Torres Strait Islander people, First Nations Aged Care Commissioner

National Agreement on Closing the Gap

At the meeting of National Cabinet in early February 2023, First Ministers agreed to renew their commitment to Closing the Gap by re-signing the National Agreement, first signed in July 2020. The reforms and targets outlined in the National Agreement seek to overcome the inequality experienced by Aboriginal and Torres Strait Islander people and achieve life outcomes equal to all Australians.

The Government's first Closing the Gap Implementation Plan commits to achieving Closing the Gap targets *through implementation of the Priority Reforms*. This represents a shift away from focussing on the Targets, towards the structural changes that the Priority Reforms require, and which are more likely to achieve meaningful outcomes for our people in the long term.

The four Priority Reforms offer a roadmap to meaningfully impact structural drivers of chronic disease for Aboriginal and Torres Strait Islander people. This is particularly pertinent to older people.

Priority Reform Area 1 – Formal partnerships and shared decision-making

This Priority Reform commits to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.

Priority Reform Area 2 – Building the community-controlled sector

This Priority Reform commits to building Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap. In recognition that Aboriginal and Torres Strait Islander community-controlled services are better for Aboriginal and Torres Strait Islander people, achieve better results, employ more Aboriginal and Torres Strait Islander people, and are often preferred over mainstream services.

Priority Reform Area 3 – Transformation of mainstream institutions

This Priority Reform commits to systemic and structural transformation of mainstream government organisations to improve to identify and eliminate racism, embed and practice cultural safety, deliver services in partnership with Aboriginal and Torres Strait Islander people, support truth telling about agencies' history with Aboriginal and Torres Strait Islander people, and engage fully and transparently with Aboriginal and Torres Strait Islander people when programs are being changed.

Priority Reform 4 – Sharing data and information to support decision making

This Priority Reform commits to shared access to location-specific data and information (data sovereignty) to inform local-decision making and support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms.

Review of Closing the Gap

In its first review of the National Agreement on Closing the Gap, the Productivity Commission found that governments are not adequately delivering on their commitments. Despite support for the Priority Reforms and some good practice, progress has been slow, uncoordinated, and piecemeal.

The Commission noted that to enable better outcomes, the Australian government needs to relinquish some control and acknowledge that Aboriginal and Torres Strait Islander people know what is best for their communities. It needs to share decision making with Aboriginal Community Controlled Organisations (ACCOs), recognise them as critical partners rather than passive funding

recipients, and then trust them to design, deliver and measure government services in ways that are culturally safe and meaningful for their communities.

‘Without external perspectives, government organisations will not be able to overcome any blind spots relating to institutional racism, cultural safety and unconscious bias.’³

NACCHO recommends that the Aged Care Rules align with and support the National Agreement and its four Priority Reform Areas.

Aged care services for Aboriginal and Torres Strait Islander people

In the continuum of receiving care to maintain wellbeing throughout life, aged care and primary health care become inextricably linked (The National Aboriginal and Torres Strait Islander Health Plan 2021-2031 refers)⁴. Maintaining links with primary health care providers and other therapeutic and non-clinical care services that are familiar, can be important for people as they age. Being able to access care and support from trusted providers, can provide comfort and reassurance. For Aboriginal and Torres Strait Islander people, this means receiving care from their family and community. A rights-based Aged Care Act that focuses on person-centred care, should respect and support peoples’ right to receive care from a trusted source. “The aged care system must reflect the fact that for many Aboriginal and Torres Strait Islander people, health is grounded in connection to Country, culture, family and community.”⁵

We know that Aboriginal and Torres Strait Islander people do not access aged care at a rate commensurate with or appropriate to their level of need⁶. They trust and prefer to access community-controlled services, however there is a lack of access to community-controlled aged care services, and aged care services generally, across remote and very remote areas.

The nature of care provided in Aboriginal community-controlled settings is such that, despite resourcing challenges to meet service needs, people in need are not turned away when they need help. In situations, particularly in thin markets in rural and remote regions, where community providers face huge challenges meeting service needs, having adequate staffing, having access to housing, and face other local, environmental challenges, problems and issues of aged care compliance should be met with understanding of the setting and place-based context. Addressing problems should be strengths-based and begin with offering support, education, resources etc. to help resolve and improve the situation, with a focus on continuous quality improvement.

ACCHOs’ holistic, person-centred approach to care prioritises individual client needs. The multidisciplinary care model naturally supports people as they age and have growing needs for different types of care to maintain wellness. The ACCHO model of care incorporates wraparound

³ Productivity Commission, Review of the National Agreement on Closing the Gap, Study Report, Canberra, 7 Feb 2024 [Study Report - Closing the Gap review - Productivity Commission \(pc.gov.au\)](https://www.pc.gov.au/research/indigenous/closing-the-gap/study-report).

⁴ (n.d.). <https://www.health.gov.au/topics/aboriginal-and-torres-strait-islander-health/how-we-support-health/health-plan>

⁵ *Royal Commission into Aged Care Quality and Safety Final Report: Care, Dignity and Respect Volume 1 Summary and recommendations*. (n.d.). <https://www.royalcommission.gov.au/system/files/2024-03/aged-care-rc-final-report-volume-1.pdf>

⁶ Royal Commission into Aged Care Quality and Safety, 2021, Final Report: Care, Dignity and Respect, <https://agedcare.royalcommission.gov.au/publications/final-report>

services that are not generally available through mainstream services. It ensures clients receive all the care they need.

Whilst it is critical that the ACCHO sector is strengthened to begin offering aged care services, ensuring cultural competence in aged care should not rest solely with the ACCO sector. Mainstream services also need to provide culturally safe services. This includes having leaders who embrace cultural competence and understand cultural intelligence so they can instil this in staff and be accountable to enforceable key performance indicators. Without a whole of organisation approach, no amount of staff training will deliver cultural safety for Aboriginal and Torres Strait Islander clients.

Supporting ACCOs/ACCHOs to deliver aged care services

Recognising that ACCHOs/ACCOs achieve better results for Aboriginal and Torres Strait Islander people⁷, and the Productivity Commission's recommendation⁸ that governments need to take steps to strengthen the capability of ACCHO/ACCOs in key sectors, it is essential that the new Aged Care Rules support the ACCO sector to deliver aged care services.

Integrated aged care services delivered in line with NACCHO's Core Services and Outcomes Framework⁹, a successful, well-established model of ACCHO primary health care, offer many benefits for Aboriginal and Torres Strait Islander people needing aged care services. These include:

- Promoting elder wellbeing and safety through intimate knowledge of and connections to family and community
- Ensuring their primary and chronic healthcare needs are met
- Better access to aged care by reducing complexities of needing to navigate multiple services and systems for example, providing navigation supports across My Aged Care through the ECS program
- Maintaining Indigenous identity
- Supporting management of comorbidities and social complexities experienced by many older Aboriginal and Torres Strait Islander people through holistic services that incorporate social supports.¹⁰

NACCHO recommends that in line with Priority Reform 2 of the National Agreement, regulatory controls and associated legislation provide flexibility to support ACCHOs and ACCOs to provide aged care services meet the cultural and service delivery needs of their local community.

Rules to support Aboriginal and Torres Strait Islander people

Aged care regulatory mechanisms should reflect that 'best practice in aged care' in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and

⁷ Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Canberra, fact sheets, Priority Reform 2, p3.

⁸ Productivity Commission 2024, Review of the National Agreement on Closing the Gap, Study report, volume 1, Canberra.

⁹ NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>

¹⁰ Dawson, A., Harfield, S., Davy, C., Baker, A., Kite, E., Aitken, G., Morey, K., Braunack-Mayer, A., & Brown, A. (2021). Aboriginal community-controlled aged care: Principles, practices and actions to integrate with primary health care. Primary Health Care Research & Development, 22(e50). <https://doi.org/10.1017/s1463423621000542>

adjust provider obligations accordingly. Furthermore, Aboriginal and Torres Strait Islander community-led pathways may vary across communities, in line with local customs and preferences.

“For Aboriginal and Torres Strait Islander people, healing is a holistic process, which addresses mental, physical, emotional and spiritual needs and involves connections to culture, family and land.

Healing works best when solutions are culturally strong, developed and driven at the local level, and led by Aboriginal and Torres Strait Islander people.”¹¹

Trauma informed healing therapy and Social and Emotional Wellbeing (SEWB) care should be factored into services offered.

NACCHO supports aged care regulatory mechanisms that take a more supportive and less punitive approach. We welcome the Aged Care Quality and Safety’s Commission’s stated support for innovation and openness to aged-care provider discretion as to how they achieve compliance.¹²

We welcome regulatory frameworks for aged care that support:

- a person-centred approach, as this aligns with the ACCHO model of care¹³
- an aged care system where all services are centred around and culturally appropriate for the person receiving care
- aged care services that are free of discrimination and racism and delivered flexibly to optimise health outcomes for the person receiving care
- aged care services that reflect the collective, holistic view of family, community, relationships with Elders, and connections with Country including the Torres Strait Islands or other islands as central to Aboriginal and Torres Strait Islander wellbeing
- an aged care system where Aboriginal community-controlled aged care providers are supported to:
 - determine and deliver an integrated model of care to meet the aged care, disability care and primary health care needs within their community
 - lead ACAT assessments for Aboriginal and Torres Strait Islander people in their community.
- equitable access to assessment or reassessment of needs for funded aged care services in a manner which is culturally safe, culturally appropriate, trauma-aware and healing-informed
- Aboriginal or Torres Strait Islander people to stay connected with community and Country.

NACCHO recommends that Aged Care Rules support funding policy and mechanisms that recognise that ‘best practice in aged care’ in Aboriginal and/or Torres Strait Islander community settings may look different from that in mainstream settings and adjust provider obligations accordingly.

Aligning aged care provider obligations with ACRC Recommendations

NACCHO reiterates its support for the Aged Care Royal Commission (ACRC) recommendations relating to Aboriginal and Torres Strait Islander people and aged care service providers. With respect

¹¹ [Community Healing | The Healing Foundation](#), accessed 31/10/2024

¹² Department of Health and Aged Care New Aged Care Act Exposure Draft consultation webinar, 18 January 2024

¹³ NACCHO Core Services and Outcomes Framework <https://csof.naccho.org.au/>

to provider obligations, we support Aged Care Rules that align with the ACRC recommendations outlined below:

ACRC Recommendation 50: Prioritising Aboriginal and Torres Strait Islander organisations as aged care providers

1. *The Australian Government should assist Aboriginal and Torres Strait Islander organisations to expand into aged care service delivery, whether on their own or in partnership with other organisations, including with Aboriginal Community Controlled Organisations and existing Aboriginal and Torres Strait Islander providers.*
2. *The Australian Government and the System Governor should encourage and support additional Aboriginal and Torres Strait Islander aged care providers by flexible approval and regulation of them to ensure:*
 - a. *existing Aboriginal and Torres Strait providers are not disadvantaged and should continue to provide high quality and safe aged care while being assisted to meet the new provider requirements*
 - b. *other organisations that wish to move into aged care to enhance services to Aboriginal and Torres Strait Islander people across Australia are given special consideration.*
3. *Flexibility in approval and regulation should extend to such matters as: additional time to meet new requirements; alternative means of demonstrating the necessary capability or requirement; and, in some very limited cases, exemptions. Assistance should include financial assistance for capacity-building.*

ACRC Recommendation 54: Ensuring the provision of aged care in regional, rural and remote areas, and to support equity of access to aged care services.

ACRC Recommendation 47a: Aboriginal and Torres Strait Islander people receive culturally respectful and safe, high quality, trauma-informed, needs-based and flexible aged care services regardless of where they live.

ACRC Recommendation 47c: Regional service delivery models that promote integrated care are deployed wherever possible.

ACRC Recommendation 47e: Aged care is available in regions based on need determined in consultation with Aboriginal and Torres Strait Islander populations and communities.

ACRC Recommendation 47f: Access to interpreters on at least the same basis as members of culturally and linguistically diverse communities when seeking or obtaining aged care, including health care services.

ACRC Recommendation 48:1b - Cultural Safety – specifically to require all aged care providers which promote their services to Aboriginal and Torres Strait Islander people to:

train their staff in culturally safe and trauma-informed care, and

demonstrate to the System Governor that they have reached an advanced stage of implementation of the Aboriginal and Torres Strait Islander Action Plan under the Diversity Framework.

In line with Priority Reform 2, these recommendations will support the Aboriginal Community Controlled sector to grow capability providing aged care services.

In line with Priority Reform 1, governments must share power with Aboriginal and Torres Strait Islander people in determining aged care service types, funding models and rules that can support ACCHOs to grow and sustain their workforce to provide aged care services to meet the needs of their ageing community members. This includes:

- funding additional staff to provide navigation support, such as Aged Care Connectors and Aged Care Support Coordinators, through NACCHO's Elder Care Support program which supports both ACCHOs and ACCOs
- ensuring funding models such as NATSIFAC support ACCHOs and ACCOs to deliver aged care services, nationally, including in urban and metropolitan areas.

Aged Care provision in an under-developed sector

Aboriginal and Torres Strait Islander people suffer disproportionate rates of disadvantage against all measures of socio-economic status. Stolen Generations survivors and their descendants carry higher levels of disadvantage across life outcomes when compared to other Aboriginal and Torres Strait Islander people, and their numbers are rising. Currently approximately one in three adult Aboriginal and Torres Strait Islanders are Stolen Generation survivors or descendants. All Stolen Generation survivors are now aged over 50 and so are eligible for aged care.¹⁴

ACCHOs and ACCOs that deliver aged care services are overburdened and unable to meet the demand for services from their communities. One ACCO service recently advised that despite having access to around 70 in-home aged care packages, they had taken 40 more local clients who they support at their own expense. They have a waitlist of more than 60 clients who they currently are unable to support. Overwhelmingly, Aboriginal and Torres Strait Islander people are calling for more ACCO/ACCHO aged care providers.

ACCHOs have told us that Elders are experiencing significant wait times for eligibility assessments for an aged care plan, and then waiting again, to access their plans. Some Elders entitled to higher level care plans are only receiving lower-level supports. Several Elders have passed away whilst waiting to receive the care plan for which they were entitled.

Programs managed by the Aboriginal Community Controlled sector, such as NACCHO's Elder Care Support program are successfully addressing issues around access to aged care services. Other workforce initiatives that could be funded and managed by the community controlled sector to address issues of aged care service access include Aboriginal and Torres Strait Islander Aged Care Assessors and embedding Aboriginal Health Practitioners into aged care service delivery.

NACCHO recommends that an ideal model for Aboriginal and Torres Strait Islander aged care service delivery would be for ACCHOs to deliver Elder Care Support, aged care assessment and aged care services. This would provide a clear and culturally safe pathway for care, and continuity of care in a familiar and trusted environment.

¹⁴ HFAdmin. (2021, June 1). *Significant increase in Stolen Generations survivor numbers signals urgent need for government solutions in health, aged care, and other services*. The Healing Foundation. <https://healingfoundation.org.au/2021/06/02/significant-increase-in-stolen-generations-survivor-numbers-signals-urgent-need-for-government-solutions-in-health-aged-care-and-other-services/>

Support providers to operate in thin markets to strengthen equity of access to culturally appropriate aged care

The introduction of 24/7 registered nursing requirements will exclude many ACCHOs from joining the market. It risks leaving Aboriginal and Torres Strait Islander Elders and older people going without essential care to stay on Country or having to move away from Country and family at the very time they are needed the most.

Providers already delivering care, including those in urban, rural and remote locations and those operating small facilities will also struggle to meet these new requirements. Services in these locations face a range of issues when trying to recruit and retain registered nurses which may include the high costs of recruitment and/or relocation and a lack of access to suitable accommodation. Remote services often need to provide expensive incentives such as remote allowances, free/subsidised accommodation, travel allowances and additional leave. There is a high turnover of staff in rural and remote locations due to a range of factors including isolation, culture shock and the complex and confronting nature of the work. It is important to note that services in urban areas also operate in economically and culturally thin markets. Across the sector, there is a lack of access to staff who have suitable cultural awareness and understand how to deliver care to Aboriginal and Torres Strait Islander people.

‘Analysis from the Institute for Urban Indigenous Health shows that the rate of access to aged care for older Aboriginal and Torres Strait Islanders is 10% below the national average. However, the rates of access in many remote and very remote communities attained the national average or exceeded the national average. This demonstrates that to address these access barriers and close the parity gap, investments in improving access must also focus on older Aboriginal and Torres Strait Islander people living in cities and towns.’¹⁵

To meet the recommendations of the Royal Commission and the National Agreement and ensure Aboriginal and Torres Strait Islander people receive aged care from the most appropriate organisations, consideration must be given to alternative staffing models for services in urban, regional, rural, remote and very remote locations.

NACCHO supports aged care provider rules that would provide greater flexibility, particularly in rural, remote, and regional areas, but also in thin markets, which in terms of delivering *culturally safe* care, extends to urban and metropolitan areas. This may translate to needing additional funding or to be funded in different ways than mainstream aged care providers and/or exemptions from certain obligations.

The National Aboriginal and Torres Strait Islander Aged Care (NATSIFAC) program, block funded by the Department of Health and Aged Care, and delivered by the Aboriginal community-controlled sector, has proven to be a very successful model. Currently only offered in remote settings, this program should be expanded for Aboriginal community control delivery nationally, including in urban settings. This would help to prioritise the issue of *culturally thin* service provision in urban, rural and remote settings.

NACCHO recommends that the Aged Care Rules support all recommendations relating to Aboriginal and Torres Strait Islander people made by the Aged Care Royal Commission.

¹⁵ Transforming aged care for Aboriginal and Torres Strait Islander people, First Nations Aged Care Commissioner

NACCHO recommends that Aged Care Rules support *all* Aboriginal and Torres Strait Islander people to access culturally appropriate care, regardless of where they live. This includes:

- supporting Aboriginal Community Controlled organisations providers to enter thin markets as aged care providers
- supporting Aboriginal Community Controlled Organisations, through funding and/or waivers and exemptions, to deliver aged care services and expand service delivery offerings in under-developed markets
- supporting and/or compelling all providers to deliver culturally appropriate care.

Chapter 4 – Conditions on Provider Registration, Part 3 Rights and Principles

Aged Care Act 2024 Statement of Principles (25(6a)), supports funded aged care services being delivered by a diverse, trained and appropriately skilled workforce who are valued and respected. Aged care providers in categories 4-6 must therefore be supported to ensure their workers who provide care and services for Aboriginal and Torres Strait Islander people have the time, support and resources to:

- support individuals to be culturally safe (even if they choose not to publicly disclose their Indigeneity)
- plan for and deliver culturally safe, quality and person-centred care
- provide trauma aware and healing informed care and services
- provide access to interpreters, where needed
- support or facilitate participation in cultural ceremonies, Sorry Business, Return to Country activities
- cultivate and maintain relationships and social connections, including social activities with family and community
- access health care and other services through a local ACCHO or other trusted healthcare providers.

Chapter 4 – Conditions on Provider Registration, Part 6—Aged care workers, Division 1—Workers and aged care worker requirements Subdivision B – Worker screening requirements

NACCHO acknowledges that the plan to expand NDIS worker screening checks to the aged care sector in the future (pending intergovernmental agreement between Australian governments as well as new state and territory legislation) will make it easier for workers to transition between the two sectors. Providers in remote communities are concerned, however, that this will have a disproportionate impact on their ability to maintain workforce and on availability of aged care services in remote communities, by removing their current discretion to employ workers with low grade criminal convictions. The Aged Care Royal Commission recommended that that discretion should be retained by providers.

Noting that a growing Aboriginal and Torres Strait Islander aged care workforce is central to ensuring culturally appropriate, trauma and healing informed aged care, enabling providers to apply appropriate risk management in these circumstances, is important.

NACCHO recommends, in line with the Interim First Nations Aged Care Commissioner recommendations, rules regarding worker screening requirements should:

‘Allow Aboriginal Community Controlled Organisations to apply flexibility and discretion when conducting worker screening to keep older Aboriginal and Torres Strait Islander people safe while not inappropriately excluding Aboriginal and Torres Strait Islander people from employment.’¹⁶

Chapter 4 – Conditions on Provider Registration, Part 8—Governance, Division 1—Membership of governing bodies

157-5 Kinds of provider to which the independent nonexecutive members requirement applies

NACCHO acknowledges the exemption from the independent non-executive members requirement for governing bodies of Aboriginal Community Controlled Organisation providers.

157-10 Kinds of provider to which the clinical care provision experience requirement applies

NACCHO acknowledges the exemption from the clinical care provision experience requirement for governing bodies of Aboriginal Community Controlled Organisation providers.

Chapter 5 – Registered provider, responsible person and aged care worker obligations, Part 6—Obligations relating to aged care workers, Division 1—Registered nurses [to be drafted]

‘The requirement for NATSIFAC providers to have a Registered Nurse on site 24/7 from 1 July 2024 will have a significant impact on the sustainability of many services, particularly those in remote and very remote communities. There are current services paying exorbitant rates for agency nursing staff, which are exacerbated in regional and remote areas.’¹⁷

Given the current undersupply of registered nurses and high workforce turnover, providers alone cannot increase the supply of registered nurses and will need to be supported by initiatives that attract and retain registered nurses in aged care. This requirement would need to be supported by government and industry programs and funding that provide the following:

- Support for enrolled nurses to upgrade their qualifications and nurses with lapsed registration to re-train and re-gain registration
- Support for registered nurses working in other areas of health to move into aged care Page 6 of 9
- Initiatives that increase remuneration for registered nurses in aged care to be commensurate with the acute and primary care sectors
- Initiatives to attract and recruit overseas trained nurses
- Initiatives to attract and support more people to train as nurses with a particular emphasis on Aboriginal and Torres Strait Islander people, people living in rural and remote locations and people from other diverse groups.
- Initiatives that consider the role of Aboriginal Health Practitioners and upskilling.

¹⁶ Transforming aged care for Aboriginal and Torres Strait Islander people, (Urgent and Time Sensitive Recommendations), First Nations Aged Care Commissioner

¹⁷ Transforming aged care for Aboriginal and Torres Strait Islander people, (Urgent and Time Sensitive Recommendations), First Nations Aged Care Commissioner

Noting that rules regarding provider obligations with respect to registered nurses as aged care workers are still to be drafted,

NACCHO supports the relevant urgent and time sensitive recommendations of the Interim First Nations Aged Care Commissioner, which are for the government to:

Review the timeframe for the lifting of the exemption period for the requirement to have 24/7 registered nurses in National Aboriginal and Torres Strait Islander Flexible Aged Care facilities.

Ensure continuation of current arrangements for a workforce surge capacity to help Aboriginal Community Controlled Organisations to meet the 24/7 registered nurse requirement.

Chapter 1 Introduction, Part 2 Definitions,

Section 5-5

diverse cultural activities includes cultural activities for the following:

- (a) Aboriginal or Torres Strait Islander persons;
- (b) individuals from culturally, ethnically and linguistically diverse backgrounds;
- (c) individuals who are lesbian, gay, bisexual, trans/transgender or intersex or other sexual orientations, gender diverse or bodily diverse.

diverse individual, means an individual who is:

- (a) an Aboriginal or Torres Strait Islander person, including an Aboriginal or Torres Strait Islander person from the stolen generations; or
- (b) a veteran or war widow; or
- (c) from a culturally, ethnically and linguistically diverse background; or
- (d) experiencing homelessness or at risk of experiencing homelessness; or
- (e) a parent or child who is or was separated by forced adoption or removal; or
- (f) an adult survivor of institutional child sexual abuse; or
- (g) a care leaver, including a Forgotten Australian or former child migrant placed in out of home care; or
- (h) lesbian, gay, bisexual, trans/transgender or intersex or other sexual orientations or is gender diverse or bodily diverse; or
- (i) an individual with disability or mental ill health; or
- (j) neurodivergent; or
- (k) deaf, deafblind, vision impaired or hard of hearing.

Whilst NACCHO appreciates the practicalities of categorising several different types of individuals that are considered to have needs outside of or additional to what might be considered 'normal' into a single 'diverse' category, as per the two definitions above, this risks the specific needs of individual groups being overlooked, or minimised.

Also, we ask that when using the term Stolen Generations, that the S and G are capitalised, please.

We note that the definition of ‘diverse individual’, above, does not align with the Aged Care Act 2024 Statement of Principles - specifically the Note to Section 25(4). We specifically note the exclusion from the definition of individuals who live in rural, remote or very remote areas

has specialised Aboriginal or Torres Strait Islander status: an approved residential care home has specialised Aboriginal or Torres Strait Islander status on a day if a determination that the home has specialised Aboriginal or Torres Strait Islander status under subsection 243(3) of the Act is in effect on the day.

has specialised homeless status: an approved residential care home has specialised homeless status on a day if a determination that the home has specialised homeless status under subsection 243(3) of the Act is in effect on the day.

Suggest excluding ‘has’ from the above two definitions so that they are listed together, alphabetically, with the definition immediately below. Also suggest, if possible, consistency in using one of either ‘specialist’ or ‘specialised’ for all three definitions.

specialist Aboriginal or Torres Strait Islander programs means specialist programs for Aboriginal or Torres Strait Islander persons and includes, but is not limited to, the following:

- (a) programs to deliver care and services that are culturally safe for, and tailored to meet the particular needs of, the Aboriginal or Torres Strait Islander persons to whom funded aged care services are being delivered in the approved residential care home in question;*
- (b) programs to promote social and cultural engagement and participation of Aboriginal or Torres Strait Islander persons;*
- (c) any other relevant programs that the System Governor considers appropriate.*

Consultation on Aged care rules

NACCHO expects the Department of Health and Aged Care to be cognisant of the need to consult widely with Aboriginal and Torres Strait Islander communities and be transparent about the practical implications of new aged care reforms. Some member services have told us that the Department appears to prefer to consult with organisations with whom they have relationships. Consulting with only a small segment of the sector, will not necessarily reflect the breadth of sector-wide concerns.

Without adequate consultation and collaboration with the Aboriginal Community Controlled stakeholders on appropriate models and rules for delivering and accessing aged care services, there is a risk of eroding already limited aged care services for Aboriginal and Torres Strait Islander people.

Furthermore, aged care and in fact, all services delivered by ACCHOS/ACCOs are fundamentally *person-centred*. Given the Australian Government’s focus is on delivering *person-centred* aged care, wide consultation with the Aboriginal Community Controlled sector is warranted.

I am concerned to see that so many decisions are being made for and about older Aboriginal and Torres Strait Islander people without proper consultation to gain community perspectives and input, and without adequate data and evidence to rely on. This means that the Government applies non-Indigenous perspectives to its policies, which results in Indigenous-specific programs being little more than minor tweaks to

*broad mainstream programs, rather than being designed
with and for older Aboriginal and Torres Strait Islander people.*¹⁸

Andrea Kelly, Interim First Nations Aged Care Commissioner

NACCHO recommends that in line with Priority Reforms 1 and 3 of the National Agreement, the Department consults more broadly with the ACCHO/ACCO sector, nationally, regarding Aged Care rules. This includes consulting directly with the Office of the Interim First Nations Aged Care Commissioner, NATSIAACC, NACCHO, and Aboriginal Community Controlled providers of both home and residential aged care services.

¹⁸ Health. (2025, February 10). *Transforming Aged Care for Aboriginal and Torres Strait Islander people*. Australian Government Department of Health and Aged Care.
<https://www.health.gov.au/resources/publications/transforming-aged-care-for-aboriginal-and-torres-strait-islander-people?language=en>