

# **National Aboriginal and Torres Strait Islander Ageing and Aged Care Council**

## **Submission**

### **Feedback on Aged Care Rules- Release 4b Remaining Rules**

**May 2025**



**NATSIAACC**



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## National Aboriginal and Torres Strait Islander Ageing and Aged Care Council

### About

The National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC) is the national peak body for Aboriginal and Torres Strait Islander Ageing and Aged Care. NATSIAACC works to ensure that Aboriginal and Torres Strait Islander Elders and Older People can access support and care that is culturally safe, trauma aware and healing-informed, and recognises the importance of their personal connections to community, Country and/or Island Home.

NATSIAACC is building a membership base of:

- Aboriginal and Torres Strait Islander community-controlled providers of ageing and aged care, and
- Entities with an interest in culturally appropriate ageing and aged care services.

NATSIAACC's founding Directors are all leaders in Aboriginal and Torres Strait Islander ageing and aged care provision.

### Our Vision

All Aboriginal and Torres Strait Islander people are thriving, healthy, strong, with ongoing cultural connections in their older years.

### Our Purpose

NATSIAACC supports Aboriginal and Torres Strait Islander older peoples, their families, and communities to identify, engage in, advocate for, and lead systemic reform to embed culturally safe practices across the aged care and ageing sector.

### With thanks

NATSIAACC thanks its members, stakeholders, and other peak bodies for their valuable contributions to this submission and for generously giving their time to support older Aboriginal and Torres Strait Islander people.



## Funding

NATSIAACC is funded by the Commonwealth Department of Health and Aged Care (the Department). NATSIAACC has been in operation since 2022. In the context of the current aged care reforms and the need for extensive advocacy, input, and leadership in the sector, it will be necessary to provide additional funding to support NATSIAACC to provide the input and engagement required to ensure that the reforms deliver much needed support to Aboriginal and Torres Strait Islander Elders and Older People.

## NATSIAACC Recommendations

### Chapter 2—Entry to the Commonwealth aged care system

- Recognising the knowledge and authority of Aboriginal and Torres Strait Islander Elders and Older People, families, and cultural leaders in determining eligibility for aged care. Mechanisms should be developed to allow community-based evidence of need, including verbal declarations and culturally informed documentation, particularly when supported by community-controlled services.

#### Section 56-5 – Classes of Persons Who May Apply on Behalf of Individuals

Ensure that of Aboriginal and Torres Strait Islander Elders and Older People, Aboriginal Community Controlled Health Organisations (ACCHOs), and cultural leaders are explicitly recognised as authorised applicants, acknowledging the critical role of kinship and community in decision-making.

- Co-designing and implementing assessment models led by Aboriginal and Torres Strait Islander Organisations and Practitioners. These models should enable community-controlled organisations to conduct culturally appropriate preliminary assessments that can immediately trigger access to support services ahead of formal Indigenous Assessment Tool (IAT) processes. Additionally, culturally grounded risk and needs assessment criteria should be developed to reflect social, emotional, spiritual, and cultural wellbeing.

#### Section 62-5 – Assessment Tool

Incorporate culturally appropriate assessment tools that reflect holistic health and wellbeing, moving beyond biomedical criteria to include cultural, emotional, and community indicators.



## Section 64-15 – Information for Reassessments in Other Circumstances

Push for recognition of cultural indicators and the inclusion of inputs from Aboriginal health professionals and community members as equally valuable alongside clinical data.

- Establishment of mobile, culturally safe assessment teams operated by Aboriginal and Torres Strait Islander health services to address the challenges faced by regional and remote communities. Additionally, there should be clear pathways for rapid assessment and immediate support in high-risk or underserved areas.

## Section 65-5 – Approval of Services in Service Types for Individuals

Streamline and flexible approval processes, particularly for those in remote areas is needed, reducing bureaucratic delays and acknowledging challenges related to remoteness and historical mistrust of government services.

- Redesigning prioritisation categories to include cultural urgency and collective needs. The system should account for the trauma experienced by Aboriginal and Torres Strait Islander Elders and Older People, including loss of kinship networks and social vulnerability, to enable faster access to care.

## Section 87-7 – Priority Categories and Eligibility Criteria

Prioritise categories that address cultural urgency, collective impacts, and trauma-informed care, ensuring that Aboriginal and Torres Strait Islander Elders and Older People receive timely support.

- Translating entry requirements into plain English and local Aboriginal and Torres Strait Islander languages and providing culturally relevant educational materials. Community workers should be allowed to accompany Aboriginal and Torres Strait Islander Elders and Older People throughout the application process.
- Conducting a public, independent review of the IAT's impact within 12 months of implementation. Data collection should be disaggregated to measure equity outcomes based on cultural background, language, location, and assessment pathway.



## Chapter 3—Provider registration

- Waiver of application and audit fees for ACCOs funded through a dedicated Aboriginal and Torres Strait Islander aged care capacity-building program. Subsidies should be made available to cover administrative costs of compliance (e.g., hiring staff to manage audits).

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Section 104-5- Application for registration: The fixed application fee for registration creates a financial barrier for under-resourced ACCOs, particularly in remote areas.

Subdivision G: Section 110-50- Fees payable by an entity for an audit: Fees for audits and compliance processes might disproportionately burden small organisations, diverting funds from service delivery.

- Co-design of culturally safe audit frameworks that explicitly recognise cultural governance structures, such as Aboriginal and Torres Strait Islander Elders and Older People oversight, allow for alternative evidence of compliance through community feedback, and mandate cultural competency training for quality auditors.

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Section 110-13 Audit must be conducted by quality auditor: No requirement for auditors to have cultural competency training or understanding of ACCO operational contexts.

Subdivision C and D for Home/Site assessment is designed for the mainstream providers who may not recognise cultural governance models (e.g., Elder-led decision-making) or community-based care practices.

- Implementing risk-based, proportionate regulation for Aboriginal Community Controlled Organisations (ACCOs). This should include reduced audit frequency and simplified reporting for low-risk, small, or remote providers, flexible timeframes for addressing nonconformities considering local workforce limitations, and streamlined documentation requirements that are culturally appropriate and achievable.

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Section 104-15 Application for registration—other information: Onerous documentation expectations disadvantage ACCOs with limited administrative capacity.

110-53 Audit timeframes for provider registration categories: Rigid deadlines for addressing nonconformance fail to account for workforce and resource constraints in remote settings.





- That any public compliance information about Aboriginal Community Controlled Organisations (ACCOS) be contextualised to reflect systemic challenges, such as funding or staffing shortages. Additionally, privacy protections should be implemented to prevent disproportionate harm to ACCOs' reputations within small communities.

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Division 1—Applications for registration and registration decisions: Focuses on Western corporate governance structures, excluding cultural legitimacy mechanisms like kinship systems or community boards.

Section 141-10 Other matters that must be included in the Provider Register—registered providers: Public listing of compliance issues without contextualising systemic inequities risks stigmatising ACCOs in small communities.

- Establishing a dedicated ACCO registration support team within the Aged Care Quality and Safety Commission, staffed by individuals with cultural competence and sector experience. Additionally, funding should be provided for partnerships between ACCOs and legal or administrative experts to support governance and compliance, alongside the development of tailored resources and training to help ACCOs navigate the registration and audit process.
- Amending registration rules to explicitly recognise cultural governance models, such as Elder Councils and community boards, as valid forms of provider accountability. Furthermore, ACCOs already accredited under an ACCHO, or other Aboriginal and Torres Strait Islander standards should be exempt from duplicative governance or reporting requirements.

## Chapter 4—Conditions on provider registration

- Amending Section 148-35 to allow alternative reporting methods (e.g., Elder-endorsed logs, community feedback) for ACCOs delivering TCP services.
- Introducing funding provisions under Subdivision G (110-50) to cover administrative costs for ACCOs in remote/regional areas.
- Replacing task-based metrics in Section 148-40 with outcome-focused criteria (e.g., reduced hospitalisations, improved cultural wellbeing).
- Amending Section 148-85 to mandate culturally holistic care plans co-designed with ACCOs, incorporating spiritual and kinship support as well as traditional healing practices.



- Adding a clause to Section 148-30 requiring culturally adaptive PPE protocols, developed in partnership with ACCOs, to balance infection control with cultural safety.
- Amending Section 148-70 to recognise cultural expertise as a qualification, including lived experience and traditional healing knowledge rather than only prioritising formal qualification over cultural expertise. Also, mandate continuous cultural safety training for all non-Indigenous staff as required.
- Implementing culturally safe worker screening under Section 154-3300, including community-led risk assessment and exemptions for non-violent historical offenses tied to systemic disadvantage.

## Chapter 5—Registered provider, responsible person and aged care worker obligations

- Amending Section 166-745- Annual accountability report to allow oral/community-validated reporting for ACCOs. The current one assumes universal digital literacy, disadvantaging remote providers.
- Exempt ACCOs from Section 166-1505- Pricing information or provide culturally adapted templates. Adoption of flexible, culturally safe pricing frameworks that genuinely reflect the values and practices of Aboriginal and Torres Strait Islander Aged Care Services is required instead of mandating standardised pricing format.
- Revising Section 166-805- Reporting requirements relating to registered nurses to recognise cultural expertise as equivalent to formal qualifications as required and available.
- Amending Section 167-25- Suitability of a responsible person of a registered provider to require community-led assessments for ACCO staff.
- Introducing threshold exemption in Section 167-45- Change relating to the scale of operations of a provider for small-scale changes as ACCOs struggle with rigid notification requirement for minor operational changes.
- Amending Section 167-70- Changes relating to approved residential care homes to recognise cultural governance structure and to introduce culturally safe exemption for ACCOs in MM6/7 areas. This also aligns with the Royal Commission Recommendation that culturally safe care required regulatory flexibility.





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- Amending Section 167-40- Governance arrangements of a registered provider to explicitly recognise cultural governance frameworks as compliant, validating the role of kinship systems and community boards in Aboriginal and Torres Strait Islander Aged Care Services.

## Chapter 6—Obligations of operators of aged care digital platforms

- Amending Section 188-1- Duty of operators of aged care digital platforms to require platforms to integrate ACCO governance models for Aboriginal and Torres Strait Islander user data. Also mandating cultural competency accreditation for platform under this section.
- Adding a point in Section 189-1- Notifying Commissioner of operation of aged care digital platforms that allows non-digital notifications (e.g., via community liaisons) for ACCOs in MM6/7 areas.
- Amending Section 189-5- Managing complaints to mandate culturally safe complaint resolution processes, including: Partnership with ACCOs to co-design complaint pathways and trauma-informed training for platform staff handling Aboriginal and Torres Strait Islander-related complaints.
- Expanding on Section 189-10 Managing reportable incidents to recognise cultural safety breaches as reportable incidents (e.g., inappropriate handling of sacred information).
- Provide funding under Section 189-15-Reporting requirements for ACCOs to develop culturally adapted reporting tools (e.g., voice-to-text features, pictorial templates).
- Exempting ACCOs from Section 189-20- Keeping and retaining records, etc. where compliance would breach cultural protocols, allowing alternative record-keeping methods (e.g., community-endorsed logs).
- Inserting a clause in Section 189-25- Disclosing information included in records, etc. requiring Aboriginal and Torres Strait Islander Elders and Older people's consent for disclosing their specific data.



## Chapter 9—Funding of aged care services—accommodation payments and accommodation contributions

- Introducing flexible payment timelines for ACCOs in MM6/7 areas, allowing Elder-endorsed extensions under Section 287-65 and 287-102.
- Revising Sections 287-25/287-105/287-115 to require that agreements be translated into plain language, visual and local Aboriginal and Torres Strait Islander languages and explained orally by ACCO representatives along with recognising the cultural governance.
- Establishing a Financial Hardship Fund to cover refundable deposits for ACCOs in MM6/7 areas and exempting ACCOs and low means Aboriginal and Torres Strait Islanders Elders and Older People from interest under Section 287-155- Registered provider may charge interest.
- Introducing income-based waivers or subsidies for Aboriginal and Torres Strait Islander Elders and Older People from financially disadvantaged backgrounds in Section 287-45/287-135 as many Aboriginal and Torres Strait Islander Elders and Older People have limited assets due to intergenerational poverty.
- Modifying Section 287-102 Refund of pre-2014 accommodation balance to prioritising 14-days refund timelines for Aboriginal and Torres Strait Islander Elders and Older People transitioning to community living to prevent homelessness. Also, linking refunds to culturally secure transition plans, co-designed with local ACCOs.
- Providing training grants for Aboriginal and Torres Strait Islander-led aged care services to navigate compliance in Section 287-103A- Transfer of pre-2014 accommodation balance to another registered provider.

## Chapter 11—Governance of the aged care system

- Amending 349-5 Actions the Commissioner may take in dealing with reportable incidents to require ACCO involvement in investigations involving Aboriginal and Torres Strait Islander Elders and Older People. Also, prohibiting law enforcement referrals without Aboriginal and Torres Strait Islander-led risk assessments.
- Revising Division 3- Complaints Commissioner—complaints and feedback on:



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- Mandating community-based complaint lodgement (e.g., through ACCOs, Aboriginal and Torres Strait Islander Elders and Older People groups) in Section 361-10 How complaints may be made, and feedback may be given.
  - Integrating cultural safety standards (e.g., Aboriginal and Torres Strait Islander interpreters, kinship protocols) in Section 361-35 Communications with complainant, entity against which complaint made and other persons.
  - Requiring trauma-informed training for staff handling Aboriginal and Torres Strait Islander Elders and Older People's complaints in Section 361-42 Dealing with complaints—general.
- Mandating annual reporting to include disaggregated data on Aboriginal and Torres Strait Islander Elders and Older People's complaint rates/resolutions and systemic issues affecting access to culturally safe care in Section 372-5 Annual report—other matters relating to complaints functions of the Complaints Commissioner.
  - Introducing quotas for Aboriginal and Torres Strait Islander representation in the Complaints Commissioner's advisory bodies.
  - Formalising partnerships with NATSIAACC to co-design complaint resolution frameworks.

## **Chapter 13—Information management**

- Embedding Aboriginal and Torres Strait Islander data sovereignty by amending Section 544-5 Preliminary to mandating the co-design of data protocols with ACCOs/NATSIAACC, ensuring culturally safe consent processes, prohibiting the publication of community owned sacred knowledge.
- Improving accessibility through translations into major Aboriginal and Torres Strait Islander languages and community-led dissemination.
- Reducing administrative burdens on ACCOs by introducing exemptions in Section 544-10 Pricing Information for ACCOs in remote areas, with funding for dedicated compliance officers.
- Disaggregating reporting by amending Section 544-15 Approved residential care home—income and expenditure to require annual reports to include Aboriginal and Torres Strait Islander specific complaint rates and service outcomes along with analysis of barriers to culturally safe case access.



- Co-designing governance structure with ACCOs to review audit framework in Section 545-20 Additional matters that the System Governor may publish that oversees compliance with cultural safety standards.
- Allocating funds for ACCOs to hire data sovereignty officers and build digital infrastructure.

## Chapter 14—Miscellaneous

- Embedding cultural safety in review process by amending Section 556-5 Decisions by the Commissioner to require ACCOs or Aboriginal and Torres Strait Islander advocates to co-facilitate reviews involving Aboriginal and Torres Strait Islander parties.
- Additionally, mandate trauma-informed training for decision-makers and provide in-language support (e.g., interpreters, translated materials).

## Executive Summary

The National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC) welcomes the opportunity to contribute to the development of the Aged Care Rules – Release 4b, set to take effect in July 2025. As the national peak body for Aboriginal and Torres Strait Islander ageing and aged care, NATSIAACC is committed to advocating for reforms that embed cultural safety, uphold self-determination, and strengthen community-led service delivery for Aboriginal and Torres Strait Islander Elders and Older People.

While the proposed rules represent progress in accountability and service standards, they do not adequately address the unique needs of Aboriginal and Torres Strait Islander communities. NATSIAACC has identified several critical gaps, including:

- The absence of culturally safe consent processes
- Insufficient recognition of Aboriginal governance models
- Administrative burdens that disadvantage Aboriginal Community-Controlled Organisations (ACCOs)
- Rigid compliance requirements and mainstream-centric data management practices that risk perpetuating systemic barriers

To address these challenges, NATSIAACC recommends embedding Aboriginal and Torres Strait Islander Data Sovereignty, ensuring culturally competent assessment and registration processes, and promoting culturally grounded governance structures. The submission calls for flexible, community-driven solutions to improve aged care access and support ACCOs in delivering high-quality and culturally safe care. Robust and sustainable funding mechanisms



are also essential to enable the growth and sustainability of Aboriginal and Torres Strait Islander-led aged care services.

By adopting these recommendations, the Aged Care Rules 2025 can become a transformative framework that genuinely respects and empowers Aboriginal and Torres Strait Islander Elders and Older People, and Communities. Strengthening support for the Aboriginal Community-Controlled sector is not only vital for improving aged care outcomes but is also a key priority under the National Closing the Gap Agreement. Without meaningful investment in this sector, systemic barriers to culturally safe aged care will persist, further marginalising Aboriginal and Torres Strait Islander Elders and Older People.

The following sections of this submission outline the key challenges within the Aged Care Rules 2025 and provide targeted recommendations to ensure an inclusive, culturally responsive aged care system for Aboriginal and Torres Strait Islander Elders and Older People.

## Chapter 2: Entry to the Commonwealth aged care system

While the goal of streamlining access is acknowledged in this chapter, the rules fail to accommodate the complex socio-cultural, geographical, and historical factors that impact how Aboriginal and Torres Strait Islander people experience aged care access. The reliance on mainstream bureaucratic processes and rigid assessment protocols risks reinforcing systemic barriers and delays in care access for our communities.

### **Culturally Unsafe and Inflexible Assessment Processes**

NATSIAACC members and community representatives have expressed deep concerns about the lack of cultural safety and flexibility in current aged care assessment processes. Aboriginal and Torres Strait Islander Elders and Older People and Aboriginal and Torres Strait Islander Service Providers report that these assessments are often invasive, inappropriate, and fail to capture holistic aspects of wellbeing, including cultural, spiritual, and emotional health. Long delays, sometimes up to nine months exacerbate health deterioration, lead to unnecessary hospital admissions, and in some cases, result in premature deaths while waiting for services. Members highlighted that the Integrated Assessment Tool (IAT) is perceived as a rigid "tick-box exercise" that prioritises biomedical criteria over culturally relevant indicators of wellbeing.

### **Absence of Aboriginal-Specific Assessment Pathways**

Members emphasise the critical need for assessment pathways that reflect the realities of Aboriginal and Torres Strait Islander families and communities. Currently, mainstream





assessment systems overlook the significance of kinship care, connection to Country and/or Island Home, and trauma-informed practice. There is an absence of entry mechanisms led by Aboriginal and Torres Strait Islander assessors, provisions for early intervention, or the recognition of non-clinical indicators of need.

### **Delays and Bureaucratic Barriers**

The current triage system is seen as overly rigid and bureaucratic, resulting in harmful delays. Language barriers, digital exclusion, and low health literacy further hinder accessibility, particularly in remote communities. There are no responsive pathways for urgent or culturally guided care decisions, which has led to Aboriginal and Torres Strait Islander Elders and Older People passing away while waiting for assessments.

### **Systemic Impacts of Current Entry Rules**

Members view the current entry system as reflective of colonial control, undermining Aboriginal and Torres Strait Islander ways of knowing, being, and doing. The lack of Aboriginal and Torres Strait Islander governance perpetuates a paternalistic approach, eroding trust in the aged care system. As a result, many Aboriginal and Torres Strait Islander Elders and Older People disengage from formal services, experiencing systemic exclusion due to compounding factors such as health disparities, digital illiteracy, trauma, and remoteness.

### **NATSIAACC recommends:**

- Recognising the knowledge and authority of Aboriginal and Torres Strait Islander Elders and Older People, families, and cultural leaders in determining eligibility for aged care. Mechanisms should be developed to allow community-based evidence of need, including verbal declarations and culturally informed documentation, particularly when supported by community-controlled services.

#### *Section 56-5 – Classes of Persons Who May Apply on Behalf of Individuals*

Ensure that Aboriginal and Torres Strait Islander Elders and Older People, Aboriginal Community Controlled Health Organisations (ACCHOs), and cultural leaders are explicitly recognised as authorised applicants, acknowledging the critical role of kinship and community in decision-making.

- Co-designing and implementing assessment models led by Aboriginal and Torres Strait Islander organisations and practitioners. These models should enable community-controlled organisations to conduct culturally appropriate preliminary assessments that can immediately trigger access to support services ahead of formal Indigenous Assessment Tool (IAT) processes. Additionally, culturally



grounded risk and needs assessment criteria should be developed to reflect social, emotional, spiritual, and cultural wellbeing.

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Streamline and flexible approval processes, particularly for those in remote areas is needed, reducing bureaucratic delays and acknowledging challenges related to remoteness and historical mistrust of government services.

- Redesigning prioritisation categories to include cultural urgency and collective needs. The system should account for the trauma experienced by Aboriginal and Torres Strait Islander Elders and Older People, including loss of kinship networks and social vulnerability, to enable faster access to care.

#### Section 87-7 – Priority Categories and Eligibility Criteria

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- Translating entry requirements into plain English and local Aboriginal and Torres Strait Islander languages and providing culturally relevant educational materials. Community workers should be allowed to accompany Aboriginal and Torres Strait Islander Elders and Older People throughout the application process.
- Conducting a public, independent review of the IAT's impact within 12 months of implementation. Data collection should be disaggregated to measure equity



outcomes based on cultural background, language, location, and assessment pathway.

## Chapter 3: Provider Registration

From the perspective of Aboriginal and Torres Strait Islander Communities and Service Providers, the current registration framework is structurally misaligned with the realities of community-controlled service delivery. While the draft rules focus on administrative compliance and organisational infrastructure, they do not sufficiently value or support the cultural legitimacy, governance models, and service approaches of Aboriginal and Torres Strait Islander Organisations. As a result, many capable Aboriginal and Torres Strait Islander Providers are unable to enter or remain in the formal aged care system.

### **Barriers for Aboriginal and Torres Strait Islander Organisations to Register**

Feedback gathered through yarning circles revealed persistent challenges faced by Aboriginal and Torres Strait Islander Organisations when attempting to register as aged care providers. Despite existing community capacity and a strong cultural foundation, these organisations continue to face structural barriers rooted in mainstream governance models and compliance requirements.

A member highlighted that many Aboriginal and Torres Strait Islander-led groups already deliver informal aged care but are excluded from formal registration due to infrastructure deficits, funding gaps, and governance criteria that do not reflect community practices. This exclusion is particularly concerning given the historical and ongoing roles these organisations play in supporting Aboriginal and Torres Strait Islander Elders and Older People. An experience was shared on being promised for transitional support to navigate the registration process, only to find that no practical assistance was forthcoming from the department. This perceived lack of follow-through has reinforced a sense of systemic neglect and has left small Aboriginal and Torres Strait Islander Organisations uncertain about their ability to meet complex registration requirements. A concern has raised a critical point about the system's fundamental design, questioning whether it genuinely aims to accommodate community-controlled providers or merely forces them to conform to one-size-fits-all expectations that fail to respect their cultural governance models.

### **Lack of Recognition for Cultural Governance and Authority**

The current registration criteria fail to appropriately recognise or incorporate cultural governance, which is a cornerstone of Aboriginal and Torres Strait Islander Community-Controlled Organisations. Unlike mainstream models that prioritise legal structures and financial accountability, cultural governance derives its legitimacy from cultural knowledge, Eldership, and community leadership.



Many members have expressed concern that the registration framework does not adequately accommodate cultural leadership structures, such as Elder Councils or community boards, which are integral to decision-making and accountability within their communities. This omission not only undermines the cultural integrity of care provision but also contradicts the principles of community control that underpin Aboriginal and Torres Strait Islander-led service delivery.

### **Mismatch Between Regulatory Burden and Local Capacity**

There is significant concern about the disproportionate regulatory burden imposed on Aboriginal and Torres Strait Islander Aged Care Providers, particularly those seeking registration under Category A or B.

A member pointed out that regulatory obligations, including minute-by-minute reporting and stringent clinical compliance standards, require extensive digital infrastructure and administrative capacity, which are often lacking in regional and remote communities.

These administrative demands can shift focus away from direct care, as small organisations are forced to prioritise compliance over culturally responsive, wraparound care models. Aboriginal and Torres Strait Islander Elders and Older People and community members have voiced frustration at this system-driven compromise, as it not only dilutes the cultural relevance of care but also places undue strain on already limited resources.

### **Risk of Culturally Unsafe Outsourcing**

Due to the barriers preventing Aboriginal and Torres Strait Islander Organisations from achieving registration, larger non-Indigenous providers often take on aged care delivery in these communities. Unfortunately, many of these providers lack adequate cultural safety measures and fail to maintain community accountability. This practice entrenches systemic inequities and is seen as a direct contradiction to Closing the Gap commitments. Members emphasised that culturally unsafe care delivery erodes trust and discourages Aboriginal and Torres Strait Islander Elders and Older People from accessing services, leading to adverse health outcomes.



## NATSIAACC recommends:

- Wavier of application and audit fees for ACCO's funded through a dedicated Aboriginal and Torres Strait Islander aged care capacity-building program. Subsidies should be made available to cover administrative costs of compliance (e.g., hiring staff to manage audits).

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Section 104-5- Application for registration: The fixed application fee for registration creates a financial barrier for under-resourced ACCO's, particularly in remote areas.

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- Establishing a dedicated ACCO registration support team within the Aged Care Quality and Safety Commission, staffed by individuals with cultural competence and sector experience. Additionally, funding should be provided for partnerships between ACCOs and legal or administrative experts to support governance and compliance, alongside the development of tailored resources and training to help ACCOs navigate the registration and audit process.
- Amending registration rules to explicitly recognise cultural governance models, such as Elder Councils and community boards, as valid forms of provider accountability. Furthermore, ACCOs already accredited under ACCHO, or other Aboriginal and Torres Strait Islander standards should be exempt from duplicative governance or reporting requirements.

## Chapter 4 Conditions on provider registration

This chapter seeks to ensure accountability and quality assurance in aged care through a structured framework of registration conditions, reporting obligations, and operational guidelines. While these measures aim to enhance the safety and quality of care, NATSIAACC members have raised significant concerns regarding the practicality and cultural appropriateness of these requirements, particularly in the context of Aboriginal and Torres Strait Islander Community-Controlled Aged Care Services.



## **Administrative and Compliance Burden**

Our members have consistently expressed concerns about the disproportionate administrative and compliance burdens imposed by the new rules. They have highlighted that the requirement for "minute-by-minute reporting" diverts resources from actual care and is misaligned with the realities of remote service delivery. Some cited examples of care plans that include micromanagement details, such as "how a person likes their shoes tied," which undermine trust and cultural dignity. A member has shared sector-wide concerns that many providers, especially in regional and remote areas, feel overwhelmed and unprepared for the scale of compliance required under the new rules.

## **Inflexibility in Recognising Holistic and Cultural Models of Care**

NATSIAACC members have stressed that the current rules narrowly define care in clinical terms, excluding essential elements of Aboriginal and Torres Strait Islander wellbeing, such as spiritual connection, social cohesion, and Country/Island Home-based healing. The draft does not recognise cultural support work, traditional healing practices, or the role of kinship carers as legitimate aged care contributions under the regulated framework.

## **Infection Control and PPE Requirements Impacting Cultural Connection**

A critical point regarding infection control and PPE protocols was raised, which, while medically necessary, often disrupt the cultural and relational aspects of care, such as physical touch, facial expressions, or visiting customs. These requirements were not co-designed and lack community-informed flexibility, especially in post-COVID contexts.

## **Workforce Challenges and Cultural Capability Gaps**

There is a shortage of culturally trained staff, and many international or non-local workers lack understanding of Aboriginal and Torres Strait Islander Community protocols, privacy, and gender sensitivity. Members called for culturally specific bridging programs and recognised the value of employing Aboriginal and Torres Strait Islander workers with lived experience, even if they don't meet conventional qualifications.

## **Underutilisation of Aboriginal Knowledge Holders**

Current workforce conditions may disqualify Aboriginal and Torres Strait Islander people or community members with criminal histories, often the result of over-policing or systemic injustice, despite their rehabilitated status and deep cultural knowledge.



## NATSIAACC recommends:

- Amending Section 148-35 to allow alternative reporting methods (e.g., Elder-endorsed logs, community feedback) for ACCOs delivering TCP services.
- Introducing funding provisions under Subdivision G (110-50) to cover administrative costs for ACCOs in remote/regional areas.
- Replacing task-based metrics in Section 148-40 with outcome-focused criteria (e.g., reduced hospitalisations, improved cultural wellbeing).
- Amending Section 148-85 to mandate culturally holistic care plans co-designed with ACCOs, incorporating spiritual and kinship support as well as traditional healing practices.
- Adding a clause to Section 148-30 requiring culturally adaptive PPE protocols, developed in partnership with ACCOs, to balance infection control with cultural safety.
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- Implementing culturally safe worker screening under Section 154-3300, including community-led risk assessment and exemptions for non-violent historical offenses tied to systemic disadvantage.

## Chapter 5 Registered provider, responsible person and aged care worker obligations

NATSIAACC and its members expresses concerns that the governance framework proposed in Chapter 5 does not fully accommodate the unique needs of Aboriginal and Torres Strait Islander Elders and Older People, and service providers. Specifically, the argument is that the standardised regulatory controls and compliance mechanisms may not align with the cultural practices, community structures, and service delivery models prevalent in Aboriginal and Torres Strait Islander Communities.



NATSIAACC members have criticised the administrative and compliance burden imposed by rigid reporting requirements, such as detailed annual accountability reports and standardised pricing information, is disproportionate and unsustainable for many ACCOs, particularly those in remote or under-resourced settings. These requirements often assume universal digital literacy and infrastructure, which is not the reality for many Aboriginal and Torres Strait Islander-led services, forcing them to divert critical resources away from direct care and culturally responsive support.

The workforce suitability and screening criteria outlined in the chapter risk excluding Aboriginal and Torres Strait Islander knowledge holders and leaders due to vague definitions of “suitability” and a lack of recognition for cultural expertise and lived experience, especially where historical, non-violent convictions are present. Notification requirements for operational changes are inflexible, failing to distinguish between minor and significant adjustments and overlooking the unique governance models-such as Elder councils or kinship systems-that underpin community-controlled care.

Furthermore, information management obligations, including the provision of invoices and access to records, are not adapted for communities with low literacy or limited digital access, creating barriers for Aboriginal and Torres Strait Islander Elders and Older People and their families. Finally, the chapter’s emphasis on Western governance structures undermines the legitimacy and effectiveness of culturally grounded, community-led models of care, threatening the sustainability and cultural integrity of Aboriginal and Torres Strait Islander Aged Care Services.

#### NATSIAACC recommends:

- Amending Section 166-745- Annual accountability report to allow oral/community-validated reporting for ACCOs. The current one assumes universal digital literacy, disadvantaging remote providers.
- Exempt ACCOs from Section 166-1505- Pricing information or provide culturally adapted templates. Adoption of flexible, culturally safe pricing frameworks that genuinely reflect the values and practices of Aboriginal and Torres Strait Islander Aged Care Services is required instead of mandating a standardised pricing format.
- Revising Section 166-805- Reporting requirements relating to registered nurses to recognise cultural expertise as equivalent to formal qualifications as required and available.
- Amending Section 167-25- Suitability of a responsible person of a registered provider to require community-led assessments for ACCO staff.



- Introducing threshold exemption in Section 167-45- Change relating to the scale of operations of a provider for small-scale changes as ACCOs struggle with rigid notification requirements for minor operational changes.
- Amending Section 167-70- Changes relating to approved residential care homes to recognise cultural governance structure and to introduce culturally safe exemption for ACCOs in MM6/7 areas. This also aligns with the Royal Commission Recommendation that culturally safe care required regulatory flexibility.
- Amending Section 167-40- Governance arrangements of a registered provider to explicitly recognise cultural governance frameworks as compliant, validating the role of kinship systems and community boards in Aboriginal and Torres Strait Islander Aged Care Services.

## Chapter 6 Obligations of operators of aged care digital platforms

The obligations for digital platform operators fail to address the cultural and practical realities faced by ACCOs and Aboriginal and Torres Strait Islander Elders and Older People. Complaint management processes are not culturally safe or trauma-informed, and there is no requirement to involve ACCOs or cultural advisors in resolving issues that affect Aboriginal and Torres Strait Islander users. The rules do not recognise or accommodate Aboriginal and Torres Strait Islander governance models, data sovereignty principles, or culturally specific record-keeping practices, instead imposing standardised, Western approaches that may conflict with community protocols. The digital-first focus of notifications and reporting assumes universal internet access and digital literacy, which is not the case in many remote communities, creating barriers to access and engagement. Furthermore, there are inadequate safeguards to protect culturally sensitive information and a lack of requirements for platform operators to have cultural competency or to seek Aboriginal and Torres Strait Islander Elders and Older People's consent before disclosing their data. Collectively, these gaps risk further marginalisation of Aboriginal and Torres Strait Islander Elders and Older People, undermining self-determination, and eroding trust in digital aged care systems.





## NATSIAACC recommends:

- Amending Section 188-1- Duty of operators of aged care digital platforms to require platforms to integrate ACCO governance models for Aboriginal and Torres Strait Islander user data. Also mandating cultural competency accreditation for platform under this section.
- Adding a point in Section 189-1- Notifying Commissioner of operation of aged care digital platforms that allows non-digital notifications (e.g., via community liaisons) for ACCOs in MM6/7 areas.
- Amending Section 189-5- Managing complaints to mandate culturally safe complaint resolution processes, including: Partnership with ACCOs to co-design complaint pathways and trauma-informed training for platform staff handling Aboriginal and Torres Strait Islander-related complaints.
- Expanding on Section 189-10 Managing reportable incidents to recognise cultural safety breaches as reportable incidents (e.g., inappropriate handling of sacred information).
- Provide funding under Section 189-15-Reporting requirements for ACCOs to develop culturally adapted reporting tools (e.g., voice-to-text features, pictorial templates).
- Exempting ACCOs from Section 189-20- Keeping and retaining records, etc. where compliance would breach cultural protocols, allowing alternative record-keeping methods (e.g., community-endorsed logs).
- Inserting a clause in Section 189-25- Disclosing information included in records, etc. requiring Aboriginal and Torres Strait Islander Elders and Older People's consent for disclosing their specific data.

## Chapter 9 Funding of aged care services—accommodation payments and accommodation contributions

From the perspective of Aboriginal and Torres Strait Islander Aged Care Providers and Communities, Chapter 9 of the *Aged Care Rules 2025* risks deepening inequities for Aboriginal and Torres Strait Islander Elders and Older People by imposing a rigid, culturally unsafe framework for accommodation payments and contributions. The rules are overly complex and technical, creating significant barriers for communities with limited financial literacy or access to culturally appropriate support-particularly in remote and regional areas.



Members have analysed that this complexity is exacerbated by the absence of requirements for providers to communicate financial obligations or refund processes in plain language or culturally adapted formats, heightening risks of misunderstanding, distress, or exploitation. The framework's mainstream, individualised approach to agreements and payments further marginalises communities by ignoring kinship-based decision-making and community-controlled governance models, which are central to Aboriginal and Torres Strait Islander cultural practices. Strict timelines and conditions for payments and refunds fail to account for financial hardship or guarantee timely support, compounding vulnerability for Aboriginal and Torres Strait Islander Elders and Older People and families.

This is compounded by the lack of explicit safeguards, culturally safe dispute resolution mechanisms, or recognition of historical injustices that have bred mistrust in institutional financial systems. Additionally, the absence of mandated independent, culturally competent financial counselling or advocacy leaves Aboriginal and Torres Strait Islanders Elders and Older People at risk of uninformed or pressured decisions. Collectively, these issues reinforce systemic barriers to accessing aged care, perpetuate financial and emotional harm, and undermine trust in a system already viewed with scepticism due to legacies of exploitation and exclusion. Without targeted safeguards, flexibility, and community-led solutions, there exist a threat to entrench disadvantage and erode self-determination for Aboriginal and Torres Strait Islander Communities in aged care.

#### NATSIAACC recommends:

- Introducing flexible payment timelines for ACCOs in MM6/7 areas, allowing Elder-endorsed extensions under Section 287-65 and 287-102.
- Revising Sections 287-25/287-105/287-115 to require that agreements be translated into plain language, visual and local Aboriginal and Torres Strait Islander languages and explained orally by ACCO representatives along with recognising cultural governance.
- Establishing a Financial Hardship Fund to cover refundable deposits for ACCOs in MM6/7 areas and exempting ACCOs and low means Aboriginal and Torres Strait Islander Elders and Older People from interest under Section 287-155- Registered provider may charge interest.
- Introducing income-based waivers or subsidies for Aboriginal and Torres Strait Islander Elders and Older People from financially disadvantaged backgrounds in Section 287-45/287-135 as many Aboriginal and Torres Strait Islanders Elders and Older People have limited assets due to intergenerational poverty.
- Modifying Section 287-102 Refund of pre-2014 accommodation balance to prioritising 14-days refund timelines for Aboriginal and Torres Strait Islanders Elders and Older People transitioning to community living to prevent homelessness. Also, linking refunds to culturally secure transition plans, co-designed with local ACCOs.



- Providing training grants for Aboriginal and Torres Strait Islander-led aged care services to navigate compliance in Section 287-103A- Transfer of pre-2014 accommodation balance to another registered provider.

## Chapter 11 Governance of the aged care system

This raises critical concerns for Aboriginal and Torres Strait Islander Elders and Older People and Providers, particularly in its failure to address systemic cultural safety gaps and institutional barriers. The governance framework imposes rigid compliance requirements that disproportionately burden Aboriginal and Torres Strait Islander-led Providers, diverting resources from frontline care to administrative tasks, exacerbating challenges in remote service delivery and workforce shortages. Culturally unsafe complaints mechanisms persist, as the rules lack mandates for trauma-informed, community-led resolution processes, instead relying on digital or phone-based systems that exclude Aboriginal and Torres Strait Islander Elders and Older People in areas with limited connectivity or distrust of impersonal systems.

Vague definitions of "reportable incidents" risk over-policing Aboriginal and Torres Strait Islander communities through inappropriate law enforcement referrals, further eroding trust. Restrictive practices provisions also fail to protect Aboriginal and Torres Strait Islander Elders and Older People from misinterpretations of cultural expressions (e.g., ceremonies, language use) as behavioural issues, leaving them vulnerable to chemical restraint or seclusion.

Notably, the absence of disaggregated data reporting obscures systemic disparities in care quality, while Western-centric governance models neglect Aboriginal and Torres Strait Islander self-determination principles, excluding ACCOs from oversight roles. These shortcomings contradict NATSIAACC's calls for enforceable cultural safety standards, community-controlled complaint systems, and flexible regulatory frameworks that respect kinship-based care models.

### NATSIAACC recommends:

- Amending 349-5 Actions the Commissioner may take in dealing with reportable incidents to require ACCO involvement in investigations involving Aboriginal and Torres Strait Islander Elders and Older People. Also, prohibiting law enforcement referrals without Aboriginal and Torres Strait Islander-led risk assessments.
- Revising Division 3- Complaints Commissioner—complaints and feedback on
  - Mandating community-based complaint lodgement (e.g., through ACCOs, Aboriginal and Torres Strait Islander Elders and Older People groups) in Section 361-10 How complaints may be made, and feedback may be given.



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- Integrating cultural safety standards (e.g., Aboriginal and Torres Strait Islander interpreters, kinship protocols) in Section 361-35 Communications with complainant, entity against which complaint made and other persons.
- Requiring trauma-informed training for staff handling Aboriginal and Torres Strait Islander Elders and Older People's complaints in Section 361-42 Dealing with complaints—general.
- Mandating annual reporting to include disaggregated data on Aboriginal and Torres Strait Islander Elders and Older People's complaint rates/resolutions and systemic issues affecting access to culturally safe care in Section 372-5 Annual report—other matters relating to complaints functions of the Complaints Commissioner.
- Introducing quotas for Aboriginal and Torres Strait Islander representation in the Complaints Commissioner's advisory bodies.
- Formalising partnerships with NATSIAACC to co-design complaint resolution frameworks.

## Chapter 13 Information Management

NATSIAACC members advocate for information management systems that are co-designed with Aboriginal and Torres Strait Islander Communities, ensure culturally safe consent and privacy processes, and provide transparent, accessible, and meaningful data for both individuals and communities. This includes the need for disaggregated data to drive reforms, support local decision-making, and hold mainstream institutions accountable for culturally safe and responsive care.

This section of the act should be grounded in the recognition that information and data management in aged care is not just a technical or administrative function, but a matter deeply connected to cultural safety, self-determination, and the rights of Aboriginal and Torres Strait Islander Peoples. Historically, data collection and record-keeping by government agencies have been sources of trauma, mistrust, and exclusion for many Aboriginal and Torres Strait Islander Elders and Older People, particularly those affected by the Stolen Generations. The rules fail to embed the CARE Principles (Collective Benefit, Authority to Control, Responsibility, Ethics)<sup>1</sup>, or the Principles of Indigenous Data Sovereignty<sup>2</sup>, which affirm Aboriginal and Torres Strait Islander rights to govern data collection, storage, and use.

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<sup>1</sup> Figueroa-Rodríguez, C. S. G. I., & Materechera, O. H. J. L. R. (2020). The CARE Principles for Indigenous Data Governance. *Data Science Journal*.

<sup>2</sup> The Australian and New Zealand Intensive Care Society & Centre for Outcome and Resource Evaluation ANZICS CORE. (2025). PRINCIPLES OF INDIGENOUS DATA SOVEREIGNTY. In Indigenous Data Network, *Incorporating Indigenous Data Sovereignty in the ANZICS Registry*. The Australian and New Zealand Intensive





NATSIAACC emphasises that information management is an act of self-determination: data systems must empower communities, not perpetuate extractive or paternalistic practices.

## NATSIAACC recommends:

- Embedding Aboriginal and Torres Strait Islander data sovereignty by amending Section 544-5 Preliminary to mandating the co-design of data protocols with ACCOs/NATSIAACC, ensuring culturally safe consent processes, prohibiting the publication of community owed sacred knowledge.
- Improving accessibility through translations into major Aboriginal and Torres Strait Islander languages and community-led dissemination.
- Reducing administrative burdens on ACCOs by introducing exemptions in Section 544-10 Pricing Information for ACCOs in remote areas, with funding for dedicated compliance officers.
- Disaggregating reporting by amending Section 544-15 Approved residential care home— income and expenditure to require annual reports to include Aboriginal and Torres Strait Islander specific complaint rates and service outcomes along with analysis of barriers to culturally safe case access.
- Co-designing governance structures with ACCOs to review audit framework in Section 545-20 Additional matters that the System Governor may publish that oversees compliance with cultural safety standards.
- Allocating funds for ACCOs to hire data sovereignty officers and build digital infrastructure.

## Chapter 14 Miscellaneous

The chapter outlines procedural safeguards for reconsideration and review of decisions, represents a critical juncture in Australia's aged care transformation-yet it fails to address the systemic inequities long faced by Aboriginal and Torres Strait Islander Elders and Older People, and Providers. These communities, who have endured historical exclusion and institutional mistrust rooted in colonial policies like the Stolen Generations, require more than technical compliance mechanisms; they demand processes that actively dismantle barriers to equity.

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Care Society. <https://www.anzics.org/wp-content/uploads/2025/04/Principles-of-Indigenous-Data-Sovereignty.pdf>





The Aboriginal and Torres Strait Islander Aged Care Framework 2025–2035 envisions a system where self-determination, cultural safety, and holistic wellbeing are non-negotiable. However, the current drafting of Chapter 14 risks perpetuating the very disparities it seeks to resolve. For Aboriginal and Torres Strait Islander Elders and Older People—custodians of knowledge, culture, and intergenerational healing—procedural justice must extend beyond formal review rights to include trauma-informed engagement, accessible communication in language, and meaningful participation of ACCOs in dispute resolution. Without explicit mandates for Aboriginal and Torres Strait Islander governance, culturally safe advocacy pathways, and disaggregated data to track outcomes, the Rules risk replicating the systemic disadvantage that has marginalised Aboriginal and Torres Strait Islander voices for decades. Aligning these provisions with the Framework’s transformative goals is not merely administrative; it is a necessary step toward restoring trust, dignity, and equity in aged care for those who have been most excluded.

#### NATSIAACC recommends:

- Embedding cultural safety in review process by amending Section 556-5 Decisions by the Commissioner to require ACCOs or Aboriginal and Torres Strait Islander advocates to co-facilitate reviews involving Aboriginal and Torres Strait Islander parties.
- Additionally, mandate trauma-informed training for decision-makers and provide in-language support (e.g., interpreters, translated materials).

## Conclusion

The Aged Care Rules 2025 represent a pivotal moment to advance a more equitable, culturally safe, and community-driven aged care system in Australia. However, without explicit recognition of the distinct needs and aspirations of Aboriginal and Torres Strait Islander Elders and Older People, there is a risk that longstanding systemic inequities will persist.

NATSIAACC strongly encourages the Australian Government to engage in genuine partnership with Aboriginal and Torres Strait Islander Communities throughout the implementation of these reforms. Embedding Aboriginal and Torres Strait Islander governance models, adopting culturally safe data management practices, and ensuring regulatory flexibility are essential steps to enhance service delivery, rebuild trust, and uphold the dignity and rights of Aboriginal and Torres Strait Islander People in aged care.

By embracing these reforms, the Aged Care Rules 2025 can lay the groundwork for a more inclusive, resilient, and culturally responsive aged care sector—one that honours the leadership, self-determination, and wellbeing of Aboriginal and Torres Strait Islander Elders and Older People and their communities.



**NATSIAACC**