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National Aboriginal & Torres Strait Islander Ageing
and Aged Care Council



NATSIAACC Calls for Greater Commitment and Inclusion from the Australian Government to First Nations Elders, Senior and Older People within the Aged Care Bill 2024

The National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC), Australia's peak body for Aboriginal and Torres Strait Islander ageing and aged care, was disappointed by the lack of commitment and inclusion shown from the Australian Government regarding First Nations Elders, senior and older people in the Aged Care Bill 2024 introduced to Parliament on 12 September 2024.

The Senate Community Affairs Legislation Committee was accepting submissions from the community regarding the Aged Care Bill 2024. The timeframe for submissions was two weeks, with a possible extension of one week upon application. This three-week timeframe did not provide NATSIAACC with sufficient time to analyse the 544-page Aged Care Bill 2024, consult with member organisations, and to provide a detailed submission to the Committee.

NATSIAACC **recommends** that the timeframe be extended to provide sufficient time for the peak body to fully engage and consult with member organisations who provide essential and critical ageing and aged care support services to Aboriginal and Torres Strait Islander individuals, families, and communities. The extended timeframe would allow for NATSIAACC to include the valuable insights from consultations into a more detailed submission to the Committee.

Aboriginal and Torres Strait Islander inclusion within the Aged Care Bill 2024 is seriously lacking. NATSIAACC **recommends** to the Minister for Aged Care and the Australian Government that the following key points be included in the Aged Care Act 2024:

- **Section 57(3) - *If the System Governor decides not to make a determination under subsection (1), the individual's application for access to funded aged care services is taken to be withdrawn.***
 - NATSIAACC **recommends** for there to be more clarity on the effects that the determination of the System Governor may have on the application process. The Governor is to be given 14 days to complete their decision on each application, but if no decision is made, then the application is considered as withdrawn.
- **Section 66 – *Aboriginal or Torres Strait Islander persons: This section applies in relation to an individual and any service group if the individual is an Aboriginal or Torres Strait Islander person.***
 - NATSIAACC **recommends** for the section to have more content, purpose and value. The three lines dedicated to Aboriginal and Torres Strait Islander Elders, senior and older people is inadequate and unacceptable. The National Closing the



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Gap Agreement targets, including for Priority Reform 2¹ and Closing the Gap Target 1² should be included in this section.

- NATSIAACC **recommends** that the First Nations Aged Care Commissioner position be included. The Interim Commissioner role is highly regarded by the First Nations communities and First Nations Aged Care providers.
- **Section 141 – Provider Register**
 - NATSIAACC **recommends** for the register to include a filter for the Country/Island Home in which an Aboriginal and Torres Strait Islander and Mainstream provider is located, and for the completion of cultural safety, trauma aware and healing informed training to ensure the cultural integrity of services and programs.
- **Section 347 – Commissioner**
 - NATSIAACC **recommends** that there is mention of the First Nations Aged Care Commissioner being an integral part of the Act, as the Commissioner’s role is the linkage between the Australian Government and Aboriginal and Torres Strait Islander communities.
 - NATSIAACC **recommends** for the First Nations Aged Care Commissioner to be independent to the Australian Government and Commission. This will allow for the Commissioner to have separate and equal powers to the Government and Commission.
- **Section 354 – Appointment of Chief Clinical Advisor**
 - NATSIAACC **recommends** for there to be a First Nations Chief Clinical Advisor who works with the First Nations Aged Care Commissioner similar to the Chief Clinical Advisor and the Commissioner of Aged Care Quality and Safety.
- **Section 382 – Establishment of the Aged Care Quality and Safety Advisory Council**
 - NATSIAACC **recommends** for a NATSIAACC representative to be a member of the Aged Care Quality and Safety Advisory Panel to provide knowledge and experience related to Aboriginal and Torres Strait Islander ageing and aged care.
- **Section 539 (4) - Authorisation of System Governor and Appointed Commissioners to use or disclose information.**
 - NATSIAACC **strongly recommends** for the First Nations Aged Care Commissioner to be added to this list of bodies for the purposes of subsection (3).

NATSIAACC has a strong and collaborative relationship with the Interim First Nations Aged Care Commissioner. We recognise the important role of the Commissioner with representing and advocating for Elders, seniors, older people, and communities. We therefore request for the First Nations Aged Care Commissioner to be included in the Aged Care Bill 2024.

¹ Building formal Aboriginal and Torres Strait Islander the Community Controlled service sectors to deliver Closing the Gap Services

² Closing the Gap in life expectancy within a generation, by 2031



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Further, we seek clarification from the Minister for Aged Care and the Australian Government regarding the flexibility related to funding caps. Both Webinar content and the Aged Care Bill 2024 have not specified the flexibility with funding that the Government is providing in the new Act. NATSIAACC **recommends** for information regarding flexibility related to funding caps to be enhanced and more transparent within the Aged Care Act 2024 and in further communications.

We commend the Australian Government and the Minister for Aged Care for the inclusion of NATSIAACC's definition of 'Cultural Safety' within the Explanatory Memorandum. However, we **recommend** that the cultural safety definition be translated and included in the definitions within the Aged Care Act 2024, as cultural safety is critical to the reform of the aged care system.

As Australia's peak body for Aboriginal and Torres Strait Islander ageing and aged care, NATSIAACC has a leading role and responsibility to ensure that the Australian Government meets the agreement to *Closing the Gap* for Aboriginal and Torres Strait Islanders as per the National Agreement which all state and territories have signed. This significant work can only be achieved with true and genuine partnerships between the Australian Government and the Aboriginal and Torres Strait Islander Community Controlled Sector.

NATSIAACC suggests that further consideration should be given to previous recommendations³ made to the Australian Government. These include:

- Further flexibility for Aboriginal and Torres Strait Islander ageing and aged care providers with respect to:
 - Governance frameworks and governance standards to include Aboriginal and Torres Strait Islander organisational and cultural perspectives.
 - Reporting requirements to be simplified and red tape reduced.
 - Supporting the recruitment, upskilling and retention of workers in urban, rural, regional, and remote areas.
 - Consideration of options for a degree of self-regulation within the aged care regulatory framework.
 - Aboriginal and Torres Strait Islander providers fully understanding the mandatory regulatory requirements needed to achieve outcomes for clients.
- Statement of Rights being consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) endorsed by Australia (2009), to enshrine Aboriginal and Torres Strait Islander people's rights to diversity, cultural safety and self-determination in an ageing and aged care context.
- Improved system support and funding from the Australian Government for new research and innovation related to the Aged Care Act 2024 for translation into improved policies, practices and care for Elders, senior and older people.
- NATSIAACC co-designing on the list of funded aged care services.

³ NATSIAACC submissions – [New Aged Care Act - Foundations](#) and [Aged Care Act Exposure Draft](#)



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- Statement of Principles to reference culturally safe and appropriate care, 'Island Home', connection to Community and Country, 'reablement', and for older people to be given the opportunity to choose where they live to receive ageing and aged care services.
- Definition of quality care to be included with regard to:
 - Balancing duty of care and dignity of risk
 - Reliance on accurate and timely assessment and reassessment
 - Opportunities for Aboriginal and Torres Strait Islander people to choose their end of life on Country or Island Home wherever possible
 - 20(c)(viii) specifically, accommodation for transient lifestyles and care needs within the aged care system, without the loss of aged care arrangements and entitlements or with detrimental impacts on providers.
- Department to consider how whistleblower protections will operate in small and integrated communities.
- The list of officials able to receive disclosures to include provision for Aboriginal and Torres Strait Islander staff at the Department and Commission (or staff who have undertaken effective cultural safety training) to support the delivery of a culturally safe process.
- NATSIAACC co-designing an approach with Aboriginal and Torres Strait Islander providers, Elders, seniors, older people, and communities to ensure the complaint process is fit for purpose.
- Transition funding support for providers to comply with new requirements.
- Clear information on aged care system terminology, roles and responsibilities to be provided for Elders, seniors, older people, and family and representatives to support their interaction with all workers.
- Flexibility and early access to aged care services for Aboriginal and Torres Strait Islander people to be maintained. Imposing age limits on access does not reflect the practical and living experiences of Aboriginal and Torres Strait Islander people, families, and providers.
- Department to reconsider its approach in relation to the eligibility criteria for Aboriginal and Torres Strait Islander people. Once a system is in place to support Aboriginal and Torres Strait Islander Elders, seniors and older people, National Agreement targets are being met, and the evidence shows the need for beneficial changes to be made to the eligibility criteria, there must be engagement with the Aboriginal aged care sector to determine these changes.
- An Aboriginal and Torres Strait Islander impact assessment and evaluation of the Aged Care Act 2024 to be conducted within the first year of implementation.
- Information to be provided on the proposed interaction between the First Nations Aged Care Commissioner, the Inspector-General of Aged Care and the Regulator, to ensure coordination of effort, oversight and representation for Aboriginal and Torres Strait Islander people and their aged care providers.



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- The Aged Care Act 2024 will replace the existing Aged Care Quality and Safety Commission Act 2018; therefore, an Aboriginal and Torres Strait Islander division is to be included in the new Aged Care Quality and Safety Commission organisational structure.

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