

National Aboriginal and Torres Strait Islander Ageing and Aged Care Council

Submission

**Feedback on Stage 4a Release — Place
allocation, Funding and Provider
Obligations**

April 2025



NATSIAACC



NATSIAACC

National Aboriginal & Torres Strait Islander Ageing
and Aged Care Council



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NATSIAACC

National Aboriginal & Torres Strait Islander Ageing
and Aged Care Council



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

1. Responsible Persons – Suitability Notifications (Section 169)

- Clearly define the term “responsible person” by prescribing the roles and positions it captures across all provider types.
- Explicitly list the kinds of roles that fall under the definition of “responsible person” to avoid ambiguity in implementation.
- Specify the scope of a “change in circumstances”, including whether this includes being charged (not convicted) with a criminal offence, becoming bankrupt, or being the subject of regulatory or media attention.
- Introduce a de-identified and internal reporting process, either through legislation or enforceable standards, to uphold privacy and reduce stigma in small communities.
- Calibrate suitability notifications to the risk and function of the role, with culturally safe implementation resources provided to Aboriginal and Torres Strait Islander Aged Care Providers.

2. Quality Indicator Reporting and Record-Keeping (Sections 154 & 166)

- Provide targeted resourcing and system setup support for Aboriginal and Torres Strait Islander Aged Care Providers to comply with quality indicator reporting requirements.
- Accommodate non-standard service models, including mobile, outreach, or seasonal care, by embedding flexibility in reporting formats and frequency.
- Include additional cultural indicators (such as cultural safety, connection to Country and/or Island Home, and wellbeing) that are only required when providers are delivering care to Aboriginal and Torres Strait Islander Elders and Older People.
- Avoid imposing irrelevant and administratively burdensome indicators on providers where the indicators have no relevance to the nature of care or population served.



- Establish a mechanism to formally review or allow exemptions from quality indicators that are unsuitable in low-resource or culturally distinct contexts.

3. Service Delivery Branch Reporting and Record Retention (Sections 166-900 to 166-930)

- Exempt or adapt the “Service Delivery Branch” reporting requirement for providers using mobile, seasonal, or outreach-based care models.
- Clearly state whether the definition of “Service Delivery Branch” includes or excludes virtual platforms, home-based services, and/or temporary care points.
- Accompany the 7-year record retention requirement with flexible and culturally safe provisions, including options for community-led data governance and recognition of challenges faced by Aboriginal and Torres Strait Islander Aged Care Providers in data storage and system management.
- Support the legislation with enforceable privacy and data protection safeguards to ensure providers are not unfairly penalised for breaches outside their control.
- Introduce transition arrangements and specific financial assistance to enable compliance by July 2025.

4. Further Recommendations

- Issue mandatory plain-language guidance that is culturally safe and tailored for Aboriginal and Torres Strait Islander Aged Care Providers, particularly those with limited internal policy capacity.
- Allow extended transition periods or staged implementation for new obligations, particularly for providers with less infrastructure or resourcing.
- Establish a standing Aboriginal and Torres Strait Islander Advisory Mechanism, led by NATSIAACC, to contribute to the design, drafting and review of future Aged Care Rules, ensuring legislation and regulation reflects the specific needs of Aboriginal and Torres Strait Islander Elders and Older People and their Providers.

(Noting this sits outside the scope of the current Stage 4a Rules release)

- Exempt Aboriginal and Torres Strait Islander Aged Care Providers and recipients from the aged care co-contributions model, or provide significant subsidies and protections, in recognition of the disproportionate financial and social harm the model poses to Aboriginal and Torres Strait Islander Elders and Older People, Families, and Community-Controlled Aged Care Providers.



Executive Summary

This submission is made on behalf of the National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC) and its members in response to the Department of Health and Aged Care's Stage 4a release of the new Aged Care Rules, scheduled to come into effect on 1 July 2025.

This submission draws primarily from direct feedback provided by Aboriginal and Torres Strait Islander Aged Care Providers during a yarning circle consultation held in April 2025, as well as NATSIAACC's ongoing policy work and sector-wide engagement.

Aboriginal and Torres Strait Islander Aged Care Providers are deeply committed to meeting the obligations set out in the new legislative framework. Our sector welcomes reform, provided that it is equitable, culturally appropriate, and achievable. However, our members have raised serious and heartfelt concerns about a number of the new regulatory obligations introduced through this rule package. Without targeted resourcing, clearer guidance, and flexibility, these changes will severely compromise the ability of Aboriginal and Torres Strait Islander Aged Care Providers to survive within the system, let alone flourish.

Some of our members do not operate under block funding models and rely on limited, competitive grant funding to deliver culturally safe care. These providers often lack the administrative or policy workforce capacity needed to implement and monitor new legal requirements, such as quality indicator reporting, suitability notifications, and detailed data retention. The cumulative administrative burden imposed by these rules' risks penalising Aboriginal and Torres Strait Islander Aged Care Providers who do not have equal resourcing, further entrenching systemic inequality.

We do not oppose accountability, but we are asking for help, to keep up. Our members want to thrive in this new system, not be left behind by it. If the system is designed to increase compliance requirements, then targeted supports and funding mechanisms must also be built into the model to ensure our providers can meet those expectations.

One of the most alarming issues raised during consultation was the current co-contributions model. While not within the immediate scope of this rules release, our members made it abundantly clear that applying the same co-contribution requirements to Aboriginal and Torres Strait Islander Elders and Older People is a devastating policy mistake. Many Elders and Older People simply cannot afford to pay these out-of-pocket costs. While internal Department of Health and Aged Care data may suggest this, we have heard from frontline, on-the-ground Aged Care Providers, that this is not true. In many cases, providers are also culturally and morally unable to ask Elders and Older People to pay for their own care. This creates a catastrophic impasse, one where our community's Elders and Older People may be locked out of accessing essential care altogether.



Should the intent of the new Aged Care Act be that it unintentionally seeks to forcibly remove Aboriginal and Torres Strait Islander Aged Care Providers from the system and create a model in which only mainstream providers have the capacity to thrive, then it may be safe to say we are witnessing a new form of the Stolen Generations, a generation of stolen providers. A system in which the very services designed to care for Aboriginal and Torres Strait Islander Elders and Older People are erased, leaving Communities once again dispossessed, this time of culturally safe aged care. Some of our Elders and Older People lived through the Stolen Generations. We do not want to let them live through it again.

NATSIAACC asks the Department of Health and Aged Care to not follow in the footsteps of previous Australian institutions, intentionally or not, by robbing the Aboriginal and Torres Strait Islander Community of its ability to thrive, to age on Country and/or Island Home, but to work with us to receive care that respects culture, dignity, and self-determination.

We implore the Australian Government to work with us, not around us. Not only to include us in the reform process but to ensure our providers are supported to comply with these changes, our Elders and Older People are not excluded from care due to economic disadvantage, and our Communities are not made to suffer the loss of culturally safe services.

It is not enough to consult. We need action. We need tailored investment. And above all, we need a commitment that the future of aged care will be one where Aboriginal and Torres Strait Islander Elders and Older People are not just included but empowered to lead.

Responding to the Stage 4a rules release

Responsible Persons – Suitability Notifications (Section 169)

NATSIAACC recognises the importance of strong integrity safeguards in aged care governance. We support the principle that individuals with decision-making responsibilities must meet high standards of conduct and transparency. However, the drafting of Section 169 raises serious concerns about its lack of clarity and the risk of unintended consequences, particularly for Aboriginal and Torres Strait Islander Aged Care Providers.

The legislation does not clearly define who qualifies as a “responsible person,” nor does it outline the types of roles that fall within the scope of the rule. In our consultation, Providers raised uncertainty about whether cultural advisers, part-time managers, Elders and/or Older People involved in board functions, or casual operational staff would be captured.

The absence of specificity may discourage Community members from participating in leadership, governance, or care roles, especially where criminalisation or reputational damage could follow from unintentional non-compliance.



Equally concerning is the vagueness surrounding what constitutes a “change in circumstances.” If being charged with an offence (rather than convicted), becoming bankrupt, or receiving regulatory or media attention are all reportable events, then some members of the Aboriginal and Torres Strait Islander communities may feel exposed and over-scrutinised. In small Communities, even the perception of wrongdoing, regardless of legal outcome, can carry devastating stigma.

If the Department’s intent is to strengthen governance, not to force Aboriginal and Torres Strait Islander Aged Care Providers into a compliance quagmire, then clarity is not optional, it is essential.

NATSIAACC understands that legislation has structural limits in how much detail it can contain. However, the Department should either revise the legislative language or use the supporting documentation to define these critical concepts in a way that is usable, fair, and culturally safe.

We urge the Department to avoid creating conditions that unintentionally force community-led providers to step back from service delivery due to fear, confusion, or resource constraints.

We do not want the net result of this provision to be the quiet attrition of Aboriginal and Torres Strait Islander Aged Care Providers under the guise of accountability, we ask for clarification on the policy outcome being pursued.

To achieve the objectives of Section 169 while eliminating unintended harms, NATSIAACC recommends the following:

NATSIAACC recommends:

- Clearly define the term “responsible person” by prescribing the roles and positions it captures across all provider types.
- Explicitly list the kinds of roles that fall under the definition of “responsible person” to avoid ambiguity in implementation.
- Specify the scope of a “change in circumstances”, including whether this includes being charged (not convicted) with a criminal offence, becoming bankrupt, or being the subject of regulatory or media attention.
- Introduce a de-identified and internal reporting process, either through legislation or enforceable standards, to uphold privacy and reduce stigma in small communities.
- Calibrate suitability notifications to the risk and function of the role, with culturally safe implementation resources provided to Aboriginal and Torres Strait Islander Aged Care Providers.



Reporting and Recording Keeping (Section 154 and 166)

NATSIAACC supports efforts to improve transparency and quality in Aged Care. However, the current approach to record keeping and reporting raises critical concerns regarding cultural relevance, administrative burden, and implementation feasibility for Aboriginal and Torres Strait Islander Aged Care Providers.

The mandated indicators under Sections 154 and 166, including pressure injuries, falls, restrictive practices, polypharmacy, and weight loss, reflect a clinical lens that does not capture the full spectrum of care provided to Aboriginal and Torres Strait Islander Elders and Older People.

Holistic wellbeing, cultural safety, spiritual fulfilment, and connection to Country and/or Island Home are integral components of quality Aged Care in our Communities, and they are absent from current reporting metrics. If these indicators are to be used to assess provider performance, then they risk penalising Aboriginal and Torres Strait Islander Service Providers for delivering excellent care by community standards, simply because that care is not recognised in mainstream reporting systems.

Moreover, many Aboriginal and Torres Strait Islander Aged Care Providers do not operate on block funding or have in-house compliance teams, policy staff, or digital infrastructure. These services, particularly those in regional or rural areas, are already carrying high administrative loads with minimal resourcing. The obligations proposed under the new Rules may risk overwhelming providers and diverting time and attention away from community-facing, culturally grounded care.

This is a call to ensure that standards are inclusive. What gets measured gets managed, and what gets ignored, falls away. Currently, “quality frameworks” continue to exclude culturally relevant indicators and are invisible to regulators, which is the care that matters most to Aboriginal and Torres Strait Islander Communities. Over time, this invisibility erodes funding justification, invites unfair sanctions, and places culturally safe providers at risk of closure, not due to care failure, but due to misaligned metrics.

NATSIAACC strongly maintains that the legislation is an appropriate place to embed further culturally specific indicators, just as it already specifies mainstream clinical ones. While we acknowledge that the legislation itself may not be the place to detail platform architecture or digital compliance methods, it is the place to mandate fair and inclusive reporting requirements. Supporting documentation and guidance must then operationalise those expectations in a way that also reflects the realities of Aboriginal and Torres Strait Islander service delivery.

To achieve the objectives of Sections 154 and 166 while eliminating unintended harms, NATSIAACC recommends the following:



NATSIAACC recommends:

- Provide targeted resourcing and system setup support for Aboriginal and Torres Strait Islander Aged Care Providers to comply with quality indicator reporting requirements.
- Accommodate non-standard service models, including mobile, outreach, or seasonal care, by embedding flexibility in reporting formats and frequency.
- Include additional cultural indicators (such as cultural safety, connection to Country and/or Island Home, and wellbeing) that are only required when providers are delivering care to Aboriginal and Torres Strait Islander Elders and Older People.
- Avoid imposing irrelevant and administratively burdensome indicators on providers where the indicators have no relevance to the nature of care or population served.
- Establish a mechanism to formally review or allow exemptions from quality indicators that are unsuitable in low-resource or culturally distinct contexts.

Service Delivery Branch Notifications and 7-Year evidence rule (Sections 166-900 to 166-930)

NATSIAACC acknowledges the Department's intent to improve oversight of Aged Care service availability and ensure transparent use of public funding. However, the proposed rules requiring providers to notify the Department of every change in service delivery branch status and to retain evidence of service delivery for seven years, introduces a compliance framework that risks disregarding the lived reality of Aboriginal and Torres Strait Islander Elders and Older People and their Providers.

These rules appear to assume a static, bricks-and-mortar model of service delivery. Yet Aboriginal and Torres Strait Islander Aged Care is at times delivered through mobile, seasonal, outreach-based, or culturally specific models that reflect local needs and access constraints, especially in regional, rural, and remote areas. The requirement to notify every instance of a site opening, closing, merging, or relocating fails to acknowledge this dynamic service landscape.

For some providers, a "service delivery branch" may not be a permanent office, but a community hall used fortnightly, or an outdoor setting used for yarning and cultural support, etc.

The Rule as currently drafted is too rigid, it treats these deeply culturally grounded, community-controlled models as administrative liabilities rather than operational strengths. Providers must not be punished for their flexibility. In fact, it is precisely this flexibility that allows providers to meet Elders and Older People where they are, both literally and culturally.



Layering static reporting rules on top of these models may have the unintended consequence of classifying flexible care models as non-compliant, even when they are providing culturally safe, responsive, and effective services.

Furthermore, providers may cease or restrict outreach or community-engaged work simply to avoid triggering administrative or reporting obligations. This would have a devastating impact on service access for Elders and Older People living outside urban centres.

More concerning still is the introduction of the 7-year evidence retention requirement for funding claims. At face value, this may seem administratively neutral. However, when applied to under-resourced, grant-funded Aboriginal and Torres Strait Islander Service Providers, many of whom do not have block funding or access to top of the line, enterprise-level digital systems, the result is a built-in compliance trap.

These providers may be forced to redirect limited funding from direct care into costly record management systems or consultancy-based compliance support. In many cases, they simply cannot comply, not for lack of effort, but because the system was never designed with them in mind.

This has already been made clear through feedback during our yarning circle consultation. Participants consistently raised that the scale and granularity of the new reporting rules represent a significant leap from current expectations, and in some cases, an impossible standard. For Aged Care Providers offering flexible, intermittent services based on seasonal migration patterns, cultural events, or community need, the idea of freezing their movements into a rigid system of "branches" is both administratively absurd and culturally unsafe.

What is needed is not just flexibility, but protection. We ask that the Department of Health and Aged Care reconsider that if the Rules forcibly remove these Aged Care Providers from registration or subject them to sanctions for failing to comply with obligations they were never resourced or structured to meet, then the Aged Care System wasn't built with them in mind.

The Department has the opportunity and the responsibility to ensure that the system does not become a machine for forcibly removing Aboriginal and Torres Strait Islander Aged Care Providers from delivery. If "fit for purpose" is truly the guiding principle of reform, then that purpose must explicitly include enabling Aboriginal and Torres Strait Islander-led service models, not just tolerating them.

This is about resisting assimilation into models of care and compliance that are blind to the unique operating environments of Aboriginal and Torres Strait Islander Aged Care Providers.

There are relatively simple adjustments that could prevent these harms, such as redefining "service delivery branches" to account for mobile and non-fixed delivery, creating streamlined bulk reporting mechanisms, or exempting low-risk providers from excessive



administrative obligations. These are not regulatory loopholes; they are essential modifications that enable equity in implementation.

To achieve the objectives of Sections 166-900 to 166-930 while eliminating unintended harms, NATSIAACC recommends the following:

NATSIAACC recommends:

- Exempt or adapt the “Service Delivery Branch” reporting requirement for providers using mobile, seasonal, or outreach-based care models.
- Clearly state whether the definition of “Service Delivery Branch” includes or excludes virtual platforms, home-based services, and or temporary care points.
- Accompany the 7-year record retention requirement with flexible and culturally safe provisions, including options for Community-led data governance and recognition of challenges faced by Aboriginal and Torres Strait Islander Aged Care Providers in data storage and system management.
- Support the legislation with enforceable privacy and data protection safeguards to ensure providers are not unfairly penalised for breaches outside their control.
- Introduce transition arrangements and specific financial assistance to enable compliance by July 2025.

Additional Reflections on Funding, Transitions and Community Impact

Beyond the specific regulatory obligations outlined in Stage 4a, NATSIAACC urges the Department to reckon with the broader structural conditions shaping how Aboriginal and Torres Strait Islander Aged Care Providers and by extension, Elders and Older People, experience aged care reform.

This reform is not occurring in a vacuum, but rather, it is landing in a sector where many Aboriginal and Torres Strait Islander Aged Care Providers operate without block funding, rely on short-term grant cycles, and face workforce shortages compounded by geography, cultural obligations, and competition from better-resourced mainstream organisations. These same providers are now expected to absorb complex new reporting systems, compliance frameworks, and other obligations, without any guarantee of transitional support or tailored funding.

This is not sustainable.

It is critical that the Department recognises the distinction between mainstream providers, who may have existing infrastructure and dedicated compliance teams and community-



controlled services that already stretch every dollar to deliver culturally safe, place-based care. The capacity to 'keep up' is not equal, and pretending otherwise will only entrench inequity.

NATSIAACC is deeply concerned about the cumulative weight of these reforms, particularly as they intersect with the new co-contribution funding model. While we acknowledge this issue falls outside the immediate scope of the Stage 4a rules release, it cannot be separated from the broader impact on our communities.

In our consultations, Aged Care Providers continually share grave concerns that require Aboriginal and Torres Strait Islander Elders and Older People to contribute to the cost of care would lead to many forgoing support altogether.

In many cases, community members will refuse to make payments out of cultural principle, pride, or sheer economic impossibility. Simultaneously, providers will be forced to absorb the financial shortfall, with no viable path to sustainability. The net result will be service reduction, provider closures, and devastating consequences for Elders and Older People already on the margins of access.

NATSIAACC calls on the Department to consider exempting Aboriginal and Torres Strait Islander Aged Care Providers or at the very least, subsidising them heavily under any co-contribution model. The failure to do so will not only drive inequity, but risks reviving intergenerational harm. The system may once again punish Aboriginal and Torres Strait Islander people for not fitting into a model designed without them in mind.

Our members are calling for a reform process that acknowledges the real-world circumstances they operate in and supports them accordingly. We urge the Department to build mechanisms into the system that protect, elevate, and sustain Aboriginal and Torres Strait Islander Elders and Older People and their Community Providers, rather than asking them to race uphill while carrying additional burdens.

What we need is not only a transition plan, but a transformation in how policy is shaped around the needs of Aboriginal and Torres Strait Islander People, not as an afterthought, but as an equally fundamental principle.

We are seeking recognition that specific and targeted policy measures must be designed with and for Aboriginal and Torres Strait Islander People, so that our Elders and Older People are not left behind. Genuine inclusion in aged care reform and legislation is the only path to a system that serves all Australians, equitably and with dignity. This is one of the priority reform areas in the National Agreement on Closing the Gap which NATSIAACC is keeping the Department and Government Agencies accountable to.



Conclusion

NATSIAACC offers this submission as a call to genuine partnership, to integrity, and to justice.

We are seeing the toll that under-resourced compliance measures take on our members. We are witnessing the ways that standardised reforms, designed without consideration for Community realities, begin to suffocate culturally grounded care. And we are listening deeply, to our members, who are telling us that without urgent intervention, some of them will not survive this next phase of reform.

The Stage 4a rules may appear technical, even administrative, in nature. But to our Communities, they are anything but. These Rules will determine who gets to deliver care, what kind of care is recognised and funded, and ultimately, who gets to grow old with dignity and cultural safety and who doesn't. They are rules that have the power to erase our service providers or to include them.

If the system is truly intended to lift standards and embed fairness, then it must also be built with the people it claims to serve. That means legislation that includes the unique contexts of Aboriginal and Torres Strait Islander Elders and Older People. That means rules that; acknowledge and empower our service models, not punish them, and funding that enables our providers to comply, not sets them up to fail.

We are asking for structural equity.

NATSIAACC calls for the Department to revise, clarify, and reinforce the legislation and its implementation in ways that preserve Aboriginal and Torres Strait Islander-led care. The Aged Care System needs to appropriately fund compliance and stand with Elders and Older People.

NATSIAACC stands ready to work with the Department in good faith. But we will not stand by if the outcome of this reform is the forced erosion of our voices, our services, and our right to age in culture.

We do not want to be remembered as the generation that witnessed the disappearance of Aboriginal and Torres Strait Islander Providers from Aged Care.

We want to be remembered as the generation that fought, and succeeded, in keeping them strong.

The concerns raised here echo the deep truths already acknowledged by the Interim First Nations Aged Care Commissioner, Andrea Kelly, who has publicly stated that the aged care system has failed and continues to fail Aboriginal and Torres Strait Islander people.

If the aged care system was never designed with our mob in mind, then this reform must be the moment that changes. Not through token consultation or burdensome compliance, but through structural change led by those who know what care means in our Communities.



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We need Aboriginal and Torres Strait Islander Aged Care Providers to survive these changes in the new system.

Our Communities have been through enough, so the system needs to evolve, immediately, meaningfully, and with equity.

We stand in protest against erasure, and in promise of a future where Aboriginal and Torres Strait Islander Elders and Older People can age on Country and/or Island Home, with care that recognises not just their clinical health, but their history, culture, and inherent dignity.

We urge the Department to make the right choice, not just for policy, but for justice.



NATSIAACC