National Aboriginal and Torres Strait Islander Ageing and Aged Care Council

Submission

Aged Care Quality and Safety Commission - Draft Regulatory Strategy 2025-2026

August 2025

NATSIAACC

Contents

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Acknowledgement of Country

NATSIAACC acknowledges the Traditional Owners of the lands and waters on which we work, live and gather, as well as Country throughout Australia, and their enduring connections to land, sea and community. NATSIAACC acknowledges that these lands and waters were never ceded, and we acknowledge the sovereignty and self-determination of the Traditional Owners.

NATSIAACC pays its deepest respects to Elders past and present and recognise the continued cultural and spiritual connection to Country and/or Island Home, community, culture and knowledge.

NATSIAACC thanks them for their wisdom and courage, and for sharing their ways of knowing, being and doing – teachings that guide us to cherish and protect our Elders and Older People.

This always was and always will be Aboriginal Land.

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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, Disability and Ageing (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.

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NATSIAACC Recommendations

Key Gaps

- To embed cultural safety as a core regulatory principle, alongside rights and risk.
- Require providers to demonstrate ongoing cultural safety practice as part of compliance.
- To formally recognise Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) as regulatory partners, including in the co-design of supervision models, complaints pathways, and provider assessments.
- Insert a dedicated clause in *Section 4 - Governance and accountability* that ACCOs are formal partners in registration decisions, supervisory triage, complaints triage, and co-design of cultural safety indicators.
- To adapt the supervision model to apply equity weighting, ensuring small, remote, and Aboriginal and Torres Strait Islander-led providers are supported rather than penalised when delivering care in high-risk environments.
- To establish an Aboriginal and Torres Strait Islander Elders and Older Peoples' Advisory Group to the Commissioners to guide culturally appropriate regulation and ensure accountability to Aboriginal and Torres Strait Islander communities.
- To require annual public reporting on aged care quality and safety outcomes for Aboriginal and Torres Strait Islander Elders and Older People, including cultural safety indicators.

Embedding Cultural Safety and Governance

- To embed NATSIAACC's Cultural Safety Definition into the Draft.
- To embed the principle of self-determination, ensuring Aboriginal and Torres Strait Islander community-controlled organisations are integral to governance, co-design, and review processes for aged care services.
- To embed the Closing the Gap outcomes and formal partnerships with Aboriginal and Torres Strait Islander organisations in all legislative and regulatory mechanisms.
- To update *section 3 - Our regulatory approach* with inclusion of a culturally safe approach to perform the functions and achieve the priorities.
- To add cultural safety metrics to registration and audit tools; mandate ongoing cultural safety training for Commission staff and assessors.

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Executive Summary

The National Aboriginal and Torres Strait Islander Ageing and Aged Care Council (NATSIAACC) welcomes the opportunity to contribute and provide feedback on the Aged Care Quality Safety Commission's (The Commission) Draft Regulatory Strategy 2025–2026. As the national peak body for Aboriginal and Torres Strait Islander Ageing and Aged Care, NATSIAACC advocates for reforms that embed cultural safety, respect, self-determination, and support community-led service delivery.

Our vision is to ensure that all Aboriginal and Torres Strait Islander Elders and Older People can access culturally safe, trauma-aware, healing-informed care that is grounded in their connection to culture, community and Country and/or Island Home.

NATSIAACC's policy and advocacy work is guided by *Our Care, Our Way, Our Future*, our five-year strategic plan which prioritises eight key areas to transform aged care for our people. These priorities include expanding community-led services, growing the Aboriginal and Torres Strait Islander aged care provider and workforce base, embedding trusted community-based navigators, and strengthening culturally appropriate assessment services.

Our submission draws upon previous NATSIAACC member engagements, including our submissions. Our members have consistently called for cultural safety as a legal requirement and internal principle, not an optional overlay.

NATSIAACC urges the Commission to adopt our recommendations in full. We remain committed to co-designing culturally safe, equitable regulation alongside the Commission and Aboriginal and Torres Strait Islander communities. NATSIAACC stresses that regulation must enshrine cultural safety, self-determination and community control. Many members reported reluctance to share information with the Department, Commission and other stakeholders where engagement appears one-way and lacks transparency, this undermines trust and reduces the prospect of true co-design.

We recognise the Commission's intent to adopt a rights-based, risk-led, and collaborative approach. However, the Draft Strategy does not sufficiently reflect the unique needs, lived experiences, and cultural rights of Aboriginal and Torres Strait Islander Elders and Older People. The Strategy fails to name cultural safety as an independent regulatory principle and to require it operationally across registration, supervision and complaints. References to "diversity" and "trauma-informed approach" do not substitute for explicit cultural safety obligations. There is inadequate formal recognition of ACCOs as partners and insufficient institutional mechanisms for Aboriginal and Torres Strait Islander Elders and Older People to exercise oversight.

Aboriginal and Torres Strait Islander Elders and Older People are not simply aged care recipients; they are cultural leaders, knowledge holders, and the anchors of our families and communities. Regulation that does not enshrine their voices and authority risks reproducing paternalistic approaches that have historically excluded Aboriginal and Torres Strait Islander people from decision-making. The Commission must embed Elders and Older Peoples' oversight as a safeguard to ensure that regulatory design and implementation reflect the lived experience, cultural authority, and priorities of our communities.

Unless addressed, the strategy risks embedding a regulatory framework that continues systemic inequities rather than dismantling them.

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Key Gaps

Absence of explicit cultural safety

The Draft Strategy sets out three core approaches rights-based, risk-led, collaboration, but fails to name cultural safety as a stand-alone regulatory principle or requirement for providers and assessors. The draft references "diversity" and "trauma-informed approach" but this is not the same as requiring cultural safety under regulation.

Complaints and enforcement not specified as culturally safe or trauma-informed with ACCO participation

While the Commission commits to person-centred and restorative complaint handling, there is no binding requirement for complaints processes to be culturally safe, such as being available in community languages, involving ACCO mediators, or ensuring trauma-informed support for Elders, Older People and Stolen Generations survivors. Without these safeguards, complaints from Aboriginal and Torres Strait Islanders Elders and Older People may go unsubmitted or escalate without culturally appropriate supports, leaving harms hidden and systemic issues unaddressed. AIHW and sector reports indicate that Aboriginal and Torres Strait Islander Elders and Older People have higher care needs, including earlier entry into aged care and greater comorbidity, making culturally safe complaints systems essential[1].

Supervision model

The supervision model outlined in the Draft Strategy is a useful tool, but it does not provide a mechanism to adjust oversight intensity or supports according to providers' context, such as rurality, size, funding shortfalls, remoteness, historical disadvantage. Small, remote and Aboriginal and Torres Strait Islander-led providers often operate with fewer resources and face higher baseline risks. Without equity-sensitive support, the supervision model risks penalising these providers through enforcement or deregistration, rather than supporting them to improve and strengthen the quality of their care.

No Recognition for Aboriginal Community-Controlled Organisations (ACCOs)

The Draft Strategy refers to "peak and sector bodies" and a "First Nations hub" in resources but does not formalise the role of ACCOs as partners in supervision, registration decisions, complaint handling or co-governance. Because ACCOs hold cultural authority and community trust, excluding them from formal regulatory partnerships undermines sector legitimacy and weakens culturally appropriate regulatory

[1] (2023) *Aged care for first nations people - Australian institute of health and welfare*. Available at: https://www.aihw.gov.au/reports/australias-welfare/aged-care-for-indigenous-australians (Accessed: 28 August 2025).

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responses. NATSIAACC has previously called for ACCOs to be recognised partners in registration, complaints responses, and workforce policy.

Lack of Elders Voice and Oversight

The draft Strategy refers broadly to collaboration with "older people," but lacks clarity on how Aboriginal and Torres Strait Islander Elders and Older People will be continually and meaningfully engaged. There is no mechanism outlined for direct, ongoing inclusion of Aboriginal and Torres Strait Islander Elders and Older People in regulatory design, monitoring, and governance.

The Strategy's general references to 'older people' are insufficient. Aboriginal and Torres Strait Islanders have a distinct cultural and social role that must be recognised separately from the broader aged care population. They carry responsibilities for cultural continuity, family guidance, and community wellbeing. For this reason, a bespoke mechanism is required, such as a permanent Aboriginal and Torres Strait Islander Elders Advisory Group reporting directly to the Commissioners, to ensure their voices are not only heard, but also shape decisions at every stage of regulatory design, monitoring and governance.

Transparency and Data

The Draft Strategy's accountability mechanisms focus on parliamentary reporting, but there's no commitment to publish disaggregated outcomes for Aboriginal and Torres Strait Islander Elders and Older People. As of June 2019, Aboriginal and Torres Strait Islander people comprised only 1% of residential aged care recipients and 4% of home care recipients, despite having earlier and more complex care needs[2]. Demand is projected to double in the coming decade, with nearly 250,000 Aboriginal and Torres Strait Islander Elders and Older People expected to become eligible for aged care[3].

Data also show that Aboriginal and Torres Strait Islander people are under-represented in residential aged care relative to need and tend to enter care at younger ages. These differences must shape regulatory priorities and metrics[4]. Consistent with Closing the Gap Priority Reform Four (*Shared Data and Accountability*), transparency must include disaggregated data on cultural safety and outcomes.

Without disaggregated data and public reporting on outcomes for Aboriginal and Torres Strait Islander Elders and Older People, systemic harms remain invisible. Transparency is essential for accountability and to build trust in the regulatory system. Aligning with Closing the Gap Priority Reform Four (Shared Data

[2] (No date) *Aboriginal and Torres Strait Islander people using aged care services*. Available at: https://www.gen-agedcaredata.gov.au/www_aihwgen/media/DoH-factsheets/Aboriginal-and-Torres-Strait-Islander-peoples-use-of-aged-care-services-2018-19.pdf?ext=.pdf (Accessed: 28 August 2025).

[3] *Aged care* (2025) *NACCHO*. Available at: https://www.naccho.org.au/aged-care/ (Accessed: 28 August 2025).

[4] (2023) *Aged care for first nations people - Australian institute of health and welfare*. Available at: https://www.aihw.gov.au/reports/australias-welfare/aged-care-for-indigenous-australians (Accessed: 28 August 2025).

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and Accountability), the Commission must commit to publishing regular, disaggregated reporting that tracks cultural safety, health outcomes and access to services for our Elders and Older People. This visibility is vital to ensure that reforms are delivering tangible improvements for those who need them most.

NATSIAACC recommends:

- To embed cultural safety as a core regulatory principle, alongside rights and risk.
- Require providers to demonstrate ongoing cultural safety practice as part of compliance.
- To formally recognise Aboriginal and Torres Strait Islander community-controlled organisations as regulatory partners, including in the co-design of supervision models, complaints pathways, and provider assessments.
- Insert a dedicated clause in *Section 4 - Governance and accountability* that ACCOs are formal partners in registration decisions, supervisory triage, complaints triage, and co-design of cultural safety indicators.
- To adapt the supervision model to apply equity weighting, ensuring small, remote, and Aboriginal and Torres Strait Islander-led providers are supported rather than penalised when delivering care in high-risk environments.
- To establish an Aboriginal and Torres Strait Islander Elders and Older Peoples' Advisory Group to the Commissioners to guide culturally appropriate regulation and ensure accountability to Aboriginal and Torres Strait Islander communities.
- To require annual public reporting on aged care quality and safety outcomes for Aboriginal and Torres Strait Islander Elders and Older People, including cultural safety indicators.

Embedding Cultural Safety and Governance

The Draft Regulatory Strategy does not embed cultural safety as a statutory principle nor mandate Aboriginal and Torres Strait Islander co-design in rulemaking, regulatory mechanisms, or quality reviews. This absence risks entrenching a Western society aged care system that continues to marginalise Elders and Older People. Cultural safety must be a regulatory requirement to address systemic racism and support trust. NATSIAACC and its members repeatedly call for cultural safety to be explicitly embedded in law and regulation.

NATSIAACC was commissioned by the Department of Health, Disability and Aged Care to define "Cultural Safety in Aged Care" following extensive consultation with communities, Elders, Older People, organisations, and aged care providers. The definition states:

"Cultural safety in aged care for older Aboriginal and Torres Strait Islander people, is understanding one's own culture and the impact that your culture, thinking, and actions may have on the culture of others through ongoing critical self-reflection. Gaining such truthful insight about oneself is critical for ensuring access to a culturally safe, respectful, responsive and racism free aged care system providing for the optimal safety, autonomy, dignity, and absolute wellbeing of Aboriginal and/or Torres Strait Islander Elders and older people, and their families. Only the Aboriginal and/or Torres Strait Islander person who is the recipient of a service or interaction can determine whether it is culturally safe.

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Aged care service providers and workers must take responsibility for building trust and relationships with Aboriginal and/or Torres Strait Islander service users, and their families, and for creating a new aged care system which centres on their living experience, cultural, and ageing needs, as determined by Aboriginal and/or Torres Strait Islander service users themselves. The implementation of a trauma aware, healing informed approach to professional practice, and facilitating a greater understanding and respect for individual and collective cultures, histories, knowledges, traditions, stories, and values of Aboriginal and/or Torres Strait Islander service users, and their families, will greatly support the delivery of a quality and culturally safe aged care system. Aged care service providers must also firmly commit to continuously measure and improve structures and behaviours necessary for cultural safety and quality support to remain embedded in the Australian aged care system."

Following this definition, true cultural safety involves:

- Embedding Aboriginal and Torres Strait Islander governance and leadership across all levels of aged care design, delivery, and evaluation.
- Supporting and uplifting cultural identity, self-determination, and community-led decision-making.
- Employing and empowering an Aboriginal and Torres Strait Islander workforce.
- Ensuring services are responsive to cultural determinants of health, including kinship, spirituality, and cultural practices.
- Actively addressing institutional and interpersonal racism in aged care systems and services.

Cultural safety is essential for delivering equitable, high-quality aged care. It must be continuously reflected upon, measured through the voices and experiences of Elders and Older People, and upheld through strong accountability frameworks.

Central to cultural safety is recognising that only Aboriginal and Torres Strait Islander Elders and Older People themselves can determine whether care is culturally safe in practice. Regulatory oversight must therefore embed mechanisms for Elders and Older Peoples' voices to be heard directly and consistently, such as mandatory inclusion of Elders and Older Peoples lived experience surveys, interviews, and co-assessments as part of compliance audits. Embedding Elders and Older People as co-determiners of cultural safety ensures accountability to those most impacted and grounds the regulatory system in culturally authority rather than external judgement alone.

NATSIAACC recommends:

- To embed NATSIAACC's Cultural Safety Definition into the Draft.
- To embed the principle of self-determination, ensuring Aboriginal and Torres Strait Islander community-controlled organisations are integral to governance, co-design, and review processes for aged care services.
- To embed the Closing the Gap outcomes and formal partnerships with Aboriginal and Torres Strait Islander organisations in all legislative and regulatory mechanisms.

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- To update *section 3 - Our regulatory approach* with inclusion of a culturally safe approach to perform the functions and achieve the priorities.
- To add cultural safety metrics to registration and audit tools; mandate ongoing cultural safety training for Commission staff and assessors.

Conclusion

The Commission's Draft Regulatory Strategy 2025–2026 contains many strengths. The Strategy centres older people's rights (Statement of Rights) and emphasises autonomy, supported decision-making and dignity. That aligns with NATSIAACC's core values. The supervision levels (risk surveillance, targeted, active, heightened) make the regulator's escalation logic transparent and allow differential engagement intensity. This is a useful tool if applied equitably and with supports. Commitments to publish sector performance reports and guidance, and to recognise providers who exceed standards, are constructive for sector learning if accompanied by disaggregated reporting.

However, the Strategy risks reproducing existing inequities such as poorer outcomes, lower trust, and reduced access for Aboriginal and Torres Strait Islander Elders and Older People and may place community-controlled providers at financial and regulatory risk.

If Elders and Older People are not explicitly centred in regulatory design, aged care risks continuing to marginalise their voices, erode their authority, and diminish their wellbeing. Elders and Older People must be recognised not only as recipients of aged care, but as co-regulators and decision-makers who safeguard cultural safety for current and future generations. By embedding their oversight and authority, the Commission can ensure the aged care system reflects respect, kinship, and cultural continuity. Principals that are fundamental to Aboriginal and Torres Strait Islander ways of caring for our Elders and Older People.

This risk perpetuates inequity for Aboriginal and Torres Strait Islander Elders and Older People. NATSIAACC strongly urges the Commission to adopt the recommendations outlined in this submission, particularly those embedding cultural safety, ACCO partnership, Aboriginal and Torres Strait Islander Elders and Older People's' co-governance, equity adjustments in the supervision model, and mandatory disaggregated reporting. NATSIAACC stands ready to co-design the required guidance, indicators and pilots.

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